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Committee on Economic, Social and Cultural Rights

Fifty-ninth session

Summary record of the 51st meeting

Held at the Palais des Nations, Geneva, on Monday, 19 September 2016, at 3 p.m.

Chair: Mr. Sadi

Contents

Consideration of reports:

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant

Fifth periodic report of Costa Rica

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Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

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The meeting was called to order at 3.05 p.m.

Consideration of reports:

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant

Fifth periodic report of Costa Rica (E/C.12/CRI/5; E/C.12/CRI/Q/5 and Add.1)

1. *At the invitation of the Chair, the delegation of Costa Rica took places at the Committee table.*

2. **Mr. Solano Ortiz** (Costa Rica), introducing his country's report (E/C.12/CRI/5), said that, on 9 September 2016, Costa Rica had become the first country in the world to adopt a national agreement on the implementation of the Sustainable Development Goals, which involved the three branches of power as well as the private sector, civil society organizations and academia and whose purpose was to promote a better standard of living. Costa Rica had also signed the Paris Agreement, which was currently before the National Assembly for adoption. In August 2015, article 1 of the Constitution had been amended to highlight the multi-ethnic and multicultural nature of Costa Rican society, embrace diversity and establish conditions in which everyone could enjoy their rights. The Government had deposited the ratification instrument for the Optional Protocol to the Covenant in September 2014.

3. In keeping with its focus on the most vulnerable in society, the Government had recently ratified the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance and the Inter-American Convention on Protecting the Human Rights of Older Persons. In addition, the Act on the Promotion of the Autonomy of Persons with Disabilities had entered into force, providing for exceptions to the guardianship system, abolishing prohibitions established in the Code of Civil Procedure and introducing the concept of a personal assistant to facilitate independent living. The Office of the Deputy Minister for Political Affairs and Public Dialogue had been designated to handle indigenous affairs and an indigenous advisor had been appointed to coordinate its work with indigenous peoples. A mechanism for mandatory consultation with indigenous peoples was also to be set up in line with Presidential Directive No. 042-MP. With regard to persons of African descent, a dedicated office had been established and a national plan adopted.

4. Over the previous 20 years, great strides had been made in many areas, including life expectancy, reductions in infant mortality, drinking water and electricity coverage and reforestation. Nevertheless, unequal income distribution, poverty and inequality remained sources of considerable concern. Efforts were being made to identify continued weaknesses and to ensure that no one was left behind in the pursuit of development. New approaches and projects, such as the Bridge to Development programme, had been adopted to tackle poverty and extreme poverty and ensure that resources were channelled to the most needy. Over 109,000 individuals had benefited from the programme thus far. The national policy on the comprehensive care of abandoned persons and persons living on the streets had been introduced in July 2016, and a hospital would be established in the coming months to offer treatment to address the problem of alcohol abuse among indigenous women. A programme had also been launched to provide Internet access to marginalized households. Lastly, a labour reform had been approved to guarantee justice for workers, improve inspection services and establish legal protection against employment discrimination.

6. **Mr. Uprimny** (Country Rapporteur) commended the State party on its strong democracy, robust rule of law, inclusive approach to development and commitment to environmental protection. He said that the abolition of the military had no doubt played a significant role in the country's impressive progress on social indicators. However, the

situation appeared to have stagnated and even regressed in some areas over the previous 15 years, in particular with regard to poverty and inequality. Accordingly, he asked what the Inter-Agency Commission for the Monitoring and Implementation of International Human Rights Obligations and other entities were doing to facilitate consultation with civil society and act on its recommendations and how the decisions of the Constitutional Chamber of the Supreme Court of Justice were implemented. He invited the delegation to comment on the institutional shortcomings that might explain why policies on economic, social and cultural rights were poorly implemented. He requested further information on government health expenditure and on plans to review income redistribution schemes.

7. Expressing concern about the lack of consultation with indigenous peoples and the failure to ensure the restitution of indigenous lands that had been occupied by non-indigenous persons, he asked whether prior consultation with indigenous peoples was a justiciable right and why the bill on the autonomous development of indigenous peoples had yet to be enacted. He wished to know what plans there were to adopt comprehensive anti-discrimination legislation, how the State party was addressing problems in access to information and education for the lesbian, gay, bisexual, transgender and intersex (LGBTI) population, and what strategies were in place to improve the process for determining migration status and to ensure that migrants received identification documents. Lastly, he asked what steps were being taken to further reduce vertical and horizontal gender segregation in the labour market.

8. **Mr. Kedzia** said that, in the light of the substantial share of the active population employed in the informal market, he would like to know how those workers' rights were protected and to what extent they had access to social security. He asked what the impact had been of the Empléate Public-Private Labour Plan 2013 and, referring to the component of the Plan tailored to persons with disabilities, as mentioned in paragraph 53 of the replies to the list of issues, what precisely was meant by the word "benefited". He would like to see a more detailed assessment, including analytical data, of the impact of the measures taken to promote women's participation in the labour force and would welcome information on the changes generated by the State party's implementation of the Committee's previous concluding observations in reducing the high unemployment rates found among women, indigenous groups, persons of African descent, young people and other marginalized groups.

9. The delegation should provide more information on the main findings of the National Wages Council over the previous five years, specifically the level and breadth of application of the minimum wage and any sectoral variations therein, with particular reference to domestic workers. He would also be interested to learn how the Government planned to enforce labour inspections of private homes where domestic workers were employed and whether such inspections had led to any proceedings. Given that the labour inspectorate was required to carry out more tasks than in the past, with a smaller staff than in 2010, he would like to know how the State party planned to rectify that situation. It would also be useful to learn whether the recently adopted health policy, which specifically excluded informal sector workers, covered all other workers.

10. He would like to know the reason for the extremely slow progress of the bill to change to the policy prohibiting foreign nationals holding positions of importance in trade union organizations and of the process of ratification of the International Labour Organization (ILO) Maternity Protection Convention, 2000 (No. 183) and Equality of Treatment (Social Security) Convention, 1962 (No. 118). Had specific measures been taken to address violations of trade union rights, including threats against trade union leaders and members? He also wished to know the practical outcome of the Supreme Court ruling that certain restrictions on the right to collective bargaining were unconstitutional.

11. In respect of social security coverage, he would like to hear how the State party intended to address the fact that a large part of the population was still not covered by either the universal or the voluntary social security system. Details on access for disadvantaged groups, including homeless persons, would be welcome. It would be interesting to learn whether workers in the informal system had access to the contributory system, whether the benefits provided a decent standard of living and what was being done to make that system universal. Were the benefits provided under the non-contributory system sufficient to offer an adequate standard of living and what proportion of persons in need received such support?

12. **The Chair** asked what was done with the funds that would otherwise have paid for the army and other security forces. He said that he would also like information on the security situation in the country, given that security was a human right. Given the marked differences in wealth between neighbourhoods of San José and the high cost of living in the country, he would be interested to learn how people in the country coped with the economic situation. He would also welcome information on the authorities' attitude to the migrant workers who transited the country from south to north.

The meeting was suspended at 4 p.m. and resumed at 4.20 p.m.

13. **Mr. Solano Ortiz** (Costa Rica) said that the decree establishing the Inter-Agency Commission for the Monitoring and Implementation of International Human Rights Obligations made no provision for the participation of civil society organizations. However, discussions had recently begun with such organizations and two places on the Commission were now set aside for them; the groups concerned were also intending to establish a civil society body to contribute to the State party's follow-up to treaty body recommendations. Furthermore, the Office of the United Nations High Commissioner for Human Rights (OHCHR) was about to set up a pilot project on follow-up in Costa Rica based on its existing programme in Paraguay and as a precursor to similar projects in other Latin American countries.

14. In a move to articulate the human rights activities of the different State bodies and avoid duplication in their work, the Vice-President of the Republic had been appointed head of the Department of Social Affairs. A new intersectoral commission held regular meetings to discuss human rights activities, and overall efficiency had been improved through, inter alia, the monitoring of public policy implementation. The results-based management process was enhancing coordination between institutions working on social affairs at the highest level.

15. The Covenant took precedence over domestic law, as was reflected in a series of resolutions and decisions adopted by the Constitutional Chamber of the Supreme Court of Justice, which clearly recognized and implemented the Covenant articles. In a number of cases, it had adopted *ergo omnes* decisions ruling against the State for non-implementation of the Covenant, notably in the areas of health and education, and specifically in the case of in vitro fertilization. The ban on that procedure had been challenged in the Inter-American Court of Human Rights, which had ruled that the State party must allow it. It had now been introduced in one health centre in the country and the public health authority had decided that it should be made available to all parts of the population. In other cases, persons suffering from rare diseases that were often very expensive to treat had brought amparo proceedings to have their rights protected. Once the Constitutional Chamber had handed down a ruling, all citizens had the right to such treatment.

16. **Ms. Sánchez** (Costa Rica) said that it was proving difficult to achieve a consensus on legislation concerning the rights of indigenous peoples and the relevant bill was still before the Legislative Assembly. Although the Institute of Land and Colonization had been set up in 1977 to address the demarcation of indigenous lands throughout the country, a

census of land held by non-indigenous persons had been conducted in the regions of Salitre and Cabagra only in May 2016; the process of land recovery was now beginning. Courts with specialized magistrates had been set up throughout the country to hear complaints brought by indigenous peoples, and conflicts over land ownership were dealt with in line with the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) and the United Nations Declaration on the Rights of Indigenous Peoples. The aim of the new Indigenous Affairs Commission was to implement a three-stage plan for restitution of the land over the next six years. Funds had been set aside to cover the cost of salaries, transport and equipment, and the State would pay compensation to the expropriated non-indigenous occupants.

17. The Legislative Assembly was seeking a consensus on fiscal matters in order to close loopholes that allowed tax evasion, and a register of final beneficiaries was being drawn up in the fight against money laundering. New regulations on public sector spending meant that publicly funded institutions had to return any unspent budget allocations to the State, and funding from institutions that did not meet their mandate would be used to pay off the national debt.

18. To address discrimination, the Ombudsman was working with the human rights committee of the Legislative Assembly on a framework bill to combat all its forms in health care, education, workplaces and the provision of goods and services; the final text would be presented during the current legislative session. The Constitutional Chamber of the Supreme Court of Justice had ruled that the interpretation that had been given previously to article 52 (o) of the Electoral Code was unconstitutional and that the system of alternating between genders on electoral lists should be replaced by a system of horizontal parity to ensure that as many lists were headed by women as by men. Once it was adopted, the bill to reform article 60 of the Constitution would allow foreign citizens to become union leaders and permit both employers and workers to join unions. The constitutional reform process was underway but not yet complete: the bill would have to be debated and voted on three times over the course of two legislative sessions and receive two thirds of the votes of the members of parliament.

19. **Mr. Solano Ortiz** (Costa Rica) said that work was under way to establish a body in which indigenous peoples were represented. A working group composed of representatives of State institutions and of indigenous peoples had been convened in September 2016 to discuss land security, governance, development plans and the establishment of a mechanism for consultation. The aim was to move beyond the issues addressed in the bill on the autonomous development of indigenous peoples, which was still being considered by parliament.

20. **Ms. Whyte** (Costa Rica) said that the Legislative Assembly was discussing a proposal to balance the current budget deficit by increasing tax revenue, monitoring spending more effectively and combating tax evasion to improve tax collection. The government proposal to extend the indirect tax base by moving from sales tax to value added tax (VAT) could reduce extreme poverty in Costa Rica by 2 per cent. To address the concern that such a move would be regressive, the Government was considering a rebate mechanism for low-income families. Social spending stood at more than 23 per cent of GDP with social security accounting for 9 per cent of GDP. However, the Government was still paying off a health spending debt of around 10 per cent of GDP. With regard to education spending, the Government aimed to reach the constitutional target of 8 per cent by the end of its term. She would provide written information on social spending in rural areas, as well as on recent steps taken to protect the social, economic and cultural rights of LGBTI persons, including measures to extend social protection to same-sex partners and to combat discrimination in workplaces and universities.

21. **Mr. Solano Ortiz** (Costa Rica) said that an agreement had been reached with the Office of the United Nations High Commissioner for Refugees (UNHCR) to facilitate refugee processing procedures, and an agreement signed with UNHCR and the International Organization for Migration (IOM) on persons in transit in Costa Rica from the northern triangle allowed them access to education, health care and language and skills training in Costa Rica for 90 days before entering a third country determined by UNHCR and IOM. The country was experiencing a significant rise in migration, particularly from Cuba and Haiti, which had led to the adoption of major decisions to protect human rights and prevent trafficking, particularly following the closure of the Nicaraguan border.

22. Government action to promote gender equality included the creation of a fund to support women entrepreneurs and certificates of excellence for companies ensuring gender parity. Campaigns were being conducted to reduce wage gaps, and the number of women attending State-run centres for training in male-dominated fields such as mechanics had increased. The system of collective agreements was under review, with the aim of establishing a framework for good relations between employers and workers and preventing abuse of the system. Work was underway to ensure that national standards were in line with the relevant ILO Conventions and to provide universal social security cover. The funds that would have gone into military spending were primarily channelled into domestic security, including training for security personnel on combating threats such as drug trafficking and organized crime, particularly in vulnerable border areas. Lastly, the Government was working on ways to reduce the high cost of living in Costa Rica.

23. **Mr. Abdel-Moneim** said that the transition to VAT might prevent people on a low income from exercising their right to an adequate standard of living.

24. **Ms. Bras Gomes** said that she would like to know why, if it was possible to include informal sector workers in a voluntary insurance scheme, they could not be covered by the public social security system. More information would be appreciated on the nature of the voluntary scheme, its benefits and the basis on which the contributions were calculated. With regard to the new convention on the rights of older persons, she wished to know how such an instrument would go beyond existing conventions in its protection of human rights.

25. **Mr. Martynov** asked whether informal sector workers were afforded any form of protection, particularly health coverage.

26. **Mr. Schrijver** said that it was striking that the Covenant had been invoked in domestic courts in only five cases over a five-year period, each time in relation to the right to health enshrined in article 12. He wished to know whether enough was being done to raise awareness of the Covenant within the judiciary. He would also appreciate details of the extent to which the judgments passed in those five cases had been enforced.

27. **Mr. Uprimny** said that he would appreciate clarification on whether the decisions that had been adopted in relation to amparo proceedings brought by persons suffering from rare diseases had generated effects *erga omnes* and whether a mechanism had been put in place to follow up on the enforcement of those decisions. He also asked what judicial protection was granted to persons complaining of a violation of their right to prior consultation.

28. **Mr. Zerbini Ribeiro Leão** said that he wished to know what measures were being taken to promote the equitable distribution of family responsibilities and to combat the exploitation of children. The delegation should explain why Ngäbe-Buglé children of Nicaraguan or Panamanian parentage experienced difficulty in obtaining a birth certificate and whether any steps had been taken to rectify the situation. It should also comment on efforts to address the reported increase in violence against children.

29. He asked why poverty had risen in Costa Rica despite strong economic growth and what was being done to reduce it. He wished to know what steps were being taken to ensure the fulfilment of the economic, social and cultural rights of migrants and refugees, particularly with regard to legal aid and access to health care.

30. He invited the delegation to supply information on the legislative framework for water management and asked whether it needed to be reviewed. Information on the resources allocated to the water and sanitation sector, and on efforts to prevent water pollution, would also be welcome.

31. Noting reports that many families lived in informal settlements and that marginalized groups often faced precarious living conditions, he asked how the State party was responding to the situation. The delegation should comment on reports of forced evictions that violated international standards, including the Committee's general comment No. 7 on the right to adequate housing. Regarding the right of everyone to be free from hunger, two recent statistics were of particular concern. Only 18.7 per cent of children aged 0 to 5 months were exclusively breastfed, while 49.5 per cent of mothers with children of breastfeeding age had an iron deficiency. It would be useful to know what measures had been adopted to improve those figures, what obstacles had been encountered and why current health policies had failed in certain areas.

32. **Mr. Mancisidor de la Fuente**, noting that positive results had been achieved in terms of access to education, said that he would appreciate additional information on teacher training programmes and on the prestige attached to the teaching profession. He asked the delegation to provide examples of best practices in overcoming geographical disparities in access to education and to describe the results of measures to lower school dropout rates. The delegation should comment on a report published by the National Council of Public University Rectors according to which, in the period between 2008 and 2014, there had been a significant increase in the impact of socioeconomic differences on access to education for four-year-old children, indicating that the changes implemented between 2013 and 2015 had been insufficient.

33. He would welcome information on the impact of socioeconomic differences on access to tertiary education, statistics on access to education for persons with disabilities and examples of best practices in that respect. It would also be helpful to receive data on access to education for indigenous persons and on the use of indigenous languages as the medium of instruction. The delegation should explain what training was provided to teachers of indigenous students and what steps were being taken to protect indigenous languages, particularly Boruca, Chorotega, Guatuso and Teribe, which had been categorized as either critically or severely endangered in the Atlas of the World's Languages in Danger, compiled by the United Nations Educational, Scientific and Cultural Organization.

34. He thanked the delegation for its summary of recent measures adopted in relation to in vitro fertilization and said that the Committee would follow any developments with great interest. Lastly, noting that the State party had not yet provided any information on science and technology, he asked what positive steps had been taken to implement article 15 (1) (b) of the Covenant.

35. **Mr. Uprimny** asked whether it was true that rape was not recognized as a legal ground for abortion and, if so, whether the State party intended to bring relevant legislation into line with the Committee's general comment No. 22 on the right to sexual and reproductive health.

36. **The Chair** said that the Committee would appreciate information on the State party's implementation of the Sustainable Development Goals.

37. **Mr. Solano Ortiz** (Costa Rica) said that the aim of the tax reform was to have a progressive system that offered guarantees to protect vulnerable groups. Increased revenue would help the Government to implement its social agenda and thereby provide the public with tools for development and the knowledge to enforce their rights. Economic projections indicated that the reform would lead to a reduction in poverty. Costa Rica was engaged in accession negotiations with the Organization for Economic Cooperation and Development and the Government hoped that joining the Organization would facilitate the establishment of policies to boost opportunities for all.

38. Social security coverage was universal, which meant that even persons covered under a voluntary insurance scheme were guaranteed access to State services, regardless of their personal circumstances. Persons living on the street had access to health care and to pension provision. Arrangements were in place to protect workers who had not made the minimum number of contributions to qualify for a pension and the social security system covered disability, old age and death.

39. Constitutional Chamber judges had a comprehensive understanding of international human rights instruments. The ratification of regional instruments such as the Inter-American Convention on Protecting the Human Rights of Older Persons was intended to complement, rather than undermine, the implementation of international instruments such as the Covenant.

The meeting rose at 6 p.m.

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23 September 2016

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Committee on Economic, Social and Cultural Rights

Fifty-ninth session

Summary record of the 52nd meeting

Held at the Palais des Nations, Geneva, on Tuesday, 20 September 2016, at 10 a.m.

Chair: Mr. Sadi

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Fifth periodic report of Costa Rica (continued)

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The meeting was called to order at 10.05 a.m.

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Fifth periodic report of Costa Rica (continued) (E/C.12/CRI/5; E/C.12/CRI/Q/5 and Add.1)

1. *At the invitation of the Chair, the delegation of Costa Rica took places at the Committee table.*

2. **Mr. Solano Ortiz** (Costa Rica) said that the system for monitoring social policies was coordinated by the Vice-President, and that State institutions were obliged to follow accountability processes on a weekly basis. Policies were tailored to address the specific needs of each vulnerable sector of the population; for example, a health policy had been developed to address certain illnesses which occurred solely in Afro-descendant women. The Government had instituted two flagship social projects: the Weaving Development programme was an initiative by the First Lady to provide opportunities for the most vulnerable women by addressing the multiple causal factors of poverty; and the Bridge to Development programme provided comprehensive assistance to more than 27,000 families, through initiatives including cash transfers to help children stay in school and temporary State-paid welfare contributions to enable families to access the social security system. Legislative reforms making it easier to open bank accounts had been introduced to help build a savings culture and provide access to credit.

3. The Digital Costa Rica project provided Internet access throughout the country, while marginalized families in remote areas were given free broadband connections under the Connected Homes initiative. Programmes were also in place to ensure that the computing systems in health-care facilities and State institutions were interlinked, and to provide free Internet access in public places such as parks. Costa Rica had been the first country in the world to draft a national agenda for the implementation of the Sustainable Development Goals, in partnership with the private sector and United Nations agencies. That agenda was overseen by a committee which included the President, the Minister of Planning and the Minister for Foreign Affairs.

4. **Ms. Whyte** (Costa Rica) said that, while poverty rates had remained stable in Costa Rica over the previous two decades, the country had seen an increase in inequality as a result of the 2008 global financial crisis. Factors including lower levels of education among the working-class population and a large number of foreign companies moving their operations away from Costa Rica to locations with lower labour costs had driven the unemployment rate up to almost 11 per cent from its historic rate of below 5 per cent, in spite of the economic growth the country was experiencing. Strategies had been developed to create jobs and stimulate the production sector, while specific programmes had been designed to address the employment needs of vulnerable groups including young people, women, indigenous peoples and persons with disabilities.

5. The minimum wage was calculated separately for each sector and each occupation. As the Government wished to improve social justice for domestic workers, the minimum wage for that group had seen the largest increase during the most recent review, rising 2 per cent compared to an average rise of 0.54 per cent for other occupations. Reforms to the Labour Code had introduced regulations governing working hours, wages, social security obligations and holiday entitlement for domestic workers. The Social Insurance Fund of Costa Rica had established operational guidelines for the inclusion of domestic workers in

its systems. Workplace inspections carried out by the Ministry of Labour and Social Security helped to ensure that minimum wage standards were being adhered to.

6. In December 2015, the Government had passed the landmark Labour Law Reform Act, to be implemented in full over a period of 18 months. The reforms would bring a range of benefits including free legal services for persons on low incomes and the introduction of oral proceedings for labour claims, meaning that cases would be resolved in six months instead of three years. Provision for workplace inspections was to be strengthened, with the recruitment of 162 new inspectors and 52 lawyers. The new legislation also prohibited discrimination in employment on a wide range of grounds including age, gender, ethnicity, disability, sexual orientation and political opinion. Information would be provided in the next periodic report on the impact of the labour reforms.

7. **Ms. Sánchez** (Costa Rica) said that amendments to the General Act on HIV/AIDS had introduced provisions to protect against stigmatization and discrimination and to guarantee access to comprehensive health care and antiretroviral medicines for persons living with HIV/AIDS. Under the Act, employers were prevented from requesting HIV tests or certificates as a precondition for employment.

8. **Mr. Solano Ortiz** (Costa Rica) said that the Constitutional Chamber of the Supreme Court of Justice had issued a number of rulings relating to the rights of indigenous peoples in recent years. In 2012, a project to build a hydroelectric plant on indigenous lands in the south of the country had been suspended to allow for a consultation process to take place. In March 2016, the Minister for Foreign Affairs had been asked to withdraw the country's nominated representative to the United Nations Voluntary Fund for Indigenous Peoples owing to a lack of support from a number of indigenous groups.

9. He explained that the outcome of amparo proceedings would have effect only for the appellant in an individual case, whereas an application for constitutional review would give rise to an *erga omnes* ruling.

10. The Cabécar language was not at risk of extinction, and was in fact the most widely used indigenous language in Costa Rica. Both the Boruca and the Teribe languages and cultures were taught in schools, while Chorotega and Huetar had disappeared during the eighteenth century. The Government ran cultural sessions to preserve the knowledge of indigenous peoples beyond the confines of families. Efforts were being made to improve the facilities of schools in mountainous indigenous areas that were often hard to access. While almost 100 per cent of the country was connected to the electricity network, remote areas were served by a network of 4,500 solar panels, 1,500 of which were in indigenous communities. In order to help keep indigenous children in education, the Government provided transport and meals programmes, with school canteens remaining open during school holidays. The Government was investing US$ 26,000 per month in a scheme to use drones to transport medicines to remote communities in order to improve access to treatment for indigenous peoples. To combat discrimination against migrants, the Directorate-General for Migration organized institutional initiatives and advertising campaigns promoting integration, and policies were in place to combat racism and xenophobia, particularly in schools and workplaces.

11. The President of Costa Rica was a member of the United Nations High-Level Panel on Women's Economic Empowerment. At the national level, efforts by the Ministry of Labour and Social Security to inform the design of effective gender equality policies included research into the causes of the wage gap, gender auditing and certification of companies, and the creation of a childcare network to enable women to undertake professional training. Preschools in the network provided early years education for 50,000 children under the age of 5, 60 per cent of whom belonged to vulnerable groups. A team of 15 peripatetic teachers was working to create education models for the preschools. A

project running in indigenous areas was designed to help women form cooperatives to sell artisanal and agricultural products, and some were already exporting their goods to Europe. The projects generated income and boosted self-esteem, as well as developing the entrepreneurial skills of the women. The My First Job scheme generated employment for people entering the labour market for the first time.

12. **Ms. Whyte** (Costa Rica) said that, as one way of enabling the population to access the benefits of scientific and technological progress, solar panels were being installed to provide electricity to the small number of persons who lived in isolated areas without access to the network. To date, 30 per cent of the units had been installed in indigenous areas.

13. **Mr. Solano Ortiz** (Costa Rica) said that asylum seekers did not have to pay for their claims to be processed. In the case of refugees, the Office of the United Nations High Commissioner for Refugees (UNHCR) assumed all the costs of processing their documents and they were also provided with free health care and education. In order to prevent discrimination, their identity cards did not contain any reference to their migration status. Economic migrants were expected to pay a small amount of money to cover the administrative costs of issuing stamped certification documents. Generally speaking, it was the volume of requests rather than the associated costs that posed problems.

14. **Ms. Whyte** (Costa Rica) said that it was not easy to relate employment statistics to the disaggregated data on ethnicity generated by censuses. However, the Ministry of Labour and Social Security paid particular attention to complaints related to the right to work made by persons living in majority indigenous or Afro-descendant areas or by persons working in sectors of the economy that employed large numbers of migrants. In order to provide the most vulnerable sectors of the population with access to basic services, the Government had established a non-contributory pension scheme and had also introduced legislative changes that would make it easier to monitor employment conditions.

15. **Mr. Solano Ortiz** (Costa Rica) said that evictions were carried out to relocate individuals living in dangerous physical environments, to make way for new infrastructure or as a result of a court order. In all cases, human rights criteria were observed and an operational procedure was followed. Representatives of the National Child Welfare Agency, the Costa Rican Red Cross or other institutions had to be present when the evictions took place.

16. With regard to abortion, the Government was working with the Ministry of Health to draw up technical guidelines that would enable medical staff to determine the conditions in which therapeutic abortion would be permissible. The purpose of the guidelines was to reduce the degree of subjectivity involved in decisions concerning abortion.

17. The delegation would submit a copy of the national plan for in-service teacher training, which contained details of all the agencies and mechanisms that dealt with teacher training. A number of agreements and programmes related to study abroad enabled Costa Rican teachers to improve their language skills in Canada, the United States or elsewhere. Other initiatives were aimed at overcoming educational gaps through the use of information and communication technology in schools and setting up a virtual library. Recent investment meant that many schools were being constructed, refurbished or re-equipped. The vast majority of schools now had computer rooms and efforts were being made to ensure that all schools would do in the future.

18. **Ms. Bras Gomes**, noting that the State party had implemented its first plan related to the 2030 Agenda for Sustainable Development, said she would like to know how it would ensure that its approach to human rights complemented its development agenda. Given that discrimination existed in areas other than employment, she would be interested to hear whether the State party would consider implementing a comprehensive law on non-

discrimination that addressed all the grounds mentioned in article 2 (2) of the Covenant. She asked what steps were being taken to simplify and speed up the pensions process in the light of reports that older persons sometimes had to wait over 18 months for their non-contributory pensions.

19. **Mr. Chen**, noting that the poverty level had remained the same for 28 years despite the growth in the economy, asked what steps the State party had taken to reduce poverty, an area in which it had not achieved the related Millennium Development Goals. Poverty levels were also an important indicator of the extent to which the rights enshrined in the Covenant had been implemented.

20. **Ms. Shin** asked if domestic workers could join trade unions and whether Costa Rica had ratified the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189). She said she would be interested to know whether the human rights commission addressed issues other than health and requested more information on its role and the way that it interacted with the Government. The State party might usefully investigate the United Nations Educational, Scientific and Cultural Organization (UNESCO) programme on preserving documentary heritage as a means of educating the population and maintaining the cultural heritage of the country's indigenous peoples.

21. **Mr. Mancisidor de la Fuente** said that the statistics provided on preschool attendance and family income levels did not appear to be in line with those contained in the report issued by the National Council of Public University Rectors, which indicated that rising socioeconomic inequality levels were making it increasingly difficult for poorer children to access preschool education, and asked whether that was the case. He had been surprised to hear that certain indigenous languages had not been spoken since the eighteenth century. According to information from UNESCO, which had, in turn, obtained it from the 2000 Population and Housing Census published by the University of Costa Rica, the languages in question were being spoken as recently as the year 2000. If that information turned out to be incorrect, it would be advisable to inform UNESCO and the University of Costa Rica.

22. **Mr. Uprimny** asked what steps were being taken to tackle rising socioeconomic inequality in Costa Rica, what measures were in place to increase the level of preschool attendance and what action was being taken to reduce the disparities in unemployment and labour participation rates for men and women. He said he would also welcome information on any legislation in place that assured full access to education for the lesbian, gay, bisexual transgender and intersex community and asked whether same-sex couples had the same rights as heterosexual couples. He would like to hear what was being done to reduce waiting lists in certain sectors of the health system and asked if the State party would consider broadening the grounds on which abortion was permissible. Given the relatively high teenage pregnancy rate, he asked whether adolescents had access to sexual and reproductive health services and education. Lastly, noting that the Constitutional Chamber had ruled against allowing access to in vitro fertilization (IVF), despite the existence of an executive decree to the contrary, he asked the State party to provide clarification on the legal status of the practice.

23. **Mr. Abdel-Moneim** asked whether large foreign companies operating in Costa Rica, which often benefited from tax incentives, could be encouraged to pay their employees more than the minimum wage. He said that the minimum wage should be indexed to the cost of living.

24. **The Chair** asked whether the international financial institutions with which Costa Rica negotiated were aware of the country's obligations under the Covenant and whether, in the course of negotiations, it succeeded in adhering to its obligations. He asked whether

deforestation had increased or decreased in recent years. Lastly, he asked whether the State party attempted to safeguard and promote all indigenous languages to the same extent.

The meeting was suspended at 11.35 a.m. and resumed at 12 p.m.

25. **Mr. Solano Ortiz** (Costa Rica) said that the National Development Plan was fully in line with both the Sustainable Development Goals, which were incorporated almost in their entirety in the Plan, and the Covenant. The Government was working with a range of United Nations agencies to implement its development agenda.

26. **Ms. Whyte** (Costa Rica) said that the Ombudsman's Office was working on drafting a comprehensive anti-discrimination bill for which examples of best practice or lessons learned at the international level would be welcomed. Specific efforts were required to combat discrimination in the field of employment. With regard to the comments made concerning poverty and inequality, she stressed that, although the poverty rate had not fallen as much as might have been hoped, it should be recalled that, in the space of just five decades, Costa Rica had transitioned from a poor agricultural country to one with a high level of human development that provided quality health care, education, transport and infrastructure. The fact that life expectancy had reached almost 80 years was also very significant, particularly in the Latin American context.

27. The Government had been open in acknowledging public concerns in that area, and had developed a new multidimensional, inter-institutional approach to combating poverty. Under the new paradigm, State institutions endeavoured to identify and reach families in need in a more proactive manner, rather than waiting for them to request assistance. The new model was based on the findings of studies conducted to establish why previous poverty reduction efforts had not been as effective as expected. It should also be borne in mind that Costa Rica had been affected by the international financial crisis of 2008, albeit to a lesser extent than many other countries. Extraordinary efforts had been made to ensure that poverty levels did not worsen during that period. Another factor that had had an impact on poverty reduction efforts was that many of the migrants to the country over the past 15 years had arrived in situations of poverty or extreme poverty. There were now many social programmes targeted at that sector of the population.

28. In general, the Costa Rican development model could be considered a success, and efforts continued to develop effective solutions to reduce poverty. The minimum wage was indexed, and there was a system of solidarity-based social protection. Because production costs were comparatively high in Costa Rica, a good deal of investment had been lost to countries with lower labour costs. Efforts to reduce the budget deficit included a reform of direct as well as indirect taxation, and the additional revenue from value added tax (VAT) would have a significant impact in reducing extreme poverty. Bringing more of the population into the most dynamic sectors of the economy would require greater State investment in specialized areas of education.

29. **Mr. Solano Ortiz** (Costa Rica) said that ASTRADOMES was the trade union for domestic workers in Costa Rica. The ILO Domestic Workers Convention, 2011 (No. 189) had been ratified and was in force in Costa Rica.

30. **Ms. Sánchez** (Costa Rica) said that the human rights committee of the Legislative Assembly was responsible for identifying, examining and denouncing human rights violations. It was composed of seven deputies and served a political oversight function, reviewing the actions of the public administration on all matters related to human rights. It also drafted resolutions, recommendations, agreements and other instruments in the area of human rights for adoption by the Legislative Assembly. It was the official focal point for the Legislative Assembly on human rights issues and was responsible for coordination.

31. **Mr. Solano Ortiz** (Costa Rica) said that, as a member State of UNESCO, Costa Rica had participated in initiatives for the protection of its linguistic heritage. There continued to be a debate concerning which indigenous languages should be considered living languages. In the case of Chorotega, although 18 persons had spoken the language in 2000, they might no longer be alive and might not have passed the language on to anybody else. In any case, the issue would be reported to the relevant authorities and any additional information would be submitted to the Committee in writing.

32. In addition to financial constraints, cultural attitudes were another factor contributing to the low preschool enrolment rate; awareness-raising efforts were required in order to improve access. Approximately 42,000 children were currently enrolled in public preschool education, the majority of them from vulnerable groups. There were a number of programmes to promote the use of new technologies in the education system. There were currently 208,612 students enrolled in tertiary education, and policies were being implemented to promote university education and vocational training. Some 48,000 students — many from disadvantaged backgrounds — received university scholarships, and that figure was expected to increase significantly by 2020. Scholarships were also awarded for outstanding academic performance. The university enrolment rate had increased by 3.5 per cent between 2010 and 2014. More than 2,400 education centres provided special education services to persons with disabilities. The number of students with disabilities accessing such services had increased from some 4,000 in 2002 to more than 8,000 in 2013. Good practices in that area included a free transportation programme for persons with disabilities.

33. A series of measures was being taken to address the long waiting lists in some areas of the health system; they included the introduction of centralized electronic medical records, which was a major undertaking. It had recently been announced that primary health-care centres would open on weekends as a means of reducing waiting lists. In some centres, operations were being performed at night-time and, in some cases, on an outpatient basis. The Constitutional Chamber had accepted the ruling of the Inter-American Court of Human Rights on IVF and there was therefore no contradiction on the matter. The relevant protocols were currently being developed for the implementation of IVF services.

34. Regarding foreign direct investment, there was an extensive legal framework in Costa Rica governing the issue of corporate social responsibility. Environmental sustainability was one of the cornerstones of government policy. Costa Rica had increased its forest cover from approximately 20 per cent in the 1970s to 54 per cent today, which was one of the highest rates in the world. A number of steps had been taken to halt deforestation; they included the payment of incentives to small landowners to maintain the forests, which constituted a huge investment of State resources. Costa Rica was also involved in national and regional initiatives under the United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries. There was an inter-institutional committee to promote forest conservation, respecting the principle of coexistence with communities.

35. **Mr. Uprimny** thanked the State party for its periodic report and written replies to the list of issues, but said that it was regrettable that the common core document had not been updated in 10 years. He thanked the delegation for the constructive dialogue, and said that the Committee looked forward to receiving additional information in writing.

36. **Mr. Solano Ortiz** (Costa Rica) said that the State party welcomed the opportunity for exchange with experts from the human rights treaty bodies, which highlighted the country's strengths and weaknesses. The Committee's recommendations would be implemented to the maximum of the State party's capacity and would serve as a guide for future efforts; they would naturally be shared with civil society. The suggestion to update the country's common core document would be passed on to the relevant authorities.

37. **The Chair** thanked the delegation for the candid dialogue with the Committee, which had been a mutually beneficial learning process. He said that the Committee commended Costa Rica on its commitment to human rights and expressed its appreciation of the importance the State party attached to the Covenant. He expressed the hope that the concluding observations would be taken seriously and, above all, shared with policymakers.

The meeting rose at 12.40 p.m.

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Committee on Economic, Social and Cultural Rights

Fifty-ninth session

Summary record of the 53rd meeting

Held at the Palais des Nations, Geneva, on Tuesday, 20 September 2016, at 3 p.m.

Chair: Mr. Sadi

Contents

Consideration of reports (*continued*)

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Sixth periodic report of Cyprus

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The meeting was called to order at 3.05 p.m.

Consideration of reports (*continued*)

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Sixth periodic report of Cyprus (E/C.12/CYP/6; E/C.12/CYP/Q/6 and Add.1)

1. *At the invitation of the Chair, the delegation of Cyprus took places at the Committee table.*

2. **Ms. Koursoumba** (Cyprus), introducing the sixth periodic report of Cyprus, said that the information contained in her presentation had been provided by the competent departments of the Government of Cyprus, by the Attorney-General's Office and by independent national monitoring mechanisms, and aimed to respond to previous concluding observations of the Committee.

3. Cyprus had a democratic system of government, with an independent judiciary and a strictly enforced separation of powers, and attached great importance to human rights. The Constitution incorporated an extensive bill of rights, including those enshrined in instruments adopted under the auspices of international and regional organizations. The Government also cooperated closely with the United Nations human rights treaty bodies and submitted reports on the measures it had taken to implement the rights and freedoms established in international instruments.

4. The Government had enacted or was in the process of enacting legislation and had transposed European Union directives into its national laws with a view to improving the country's migration and anti-trafficking policy. The country had successfully implemented the macroeconomic adjustment programme agreed with the European Commission, the European Central Bank and the International Monetary Fund, while managing to prevent negative consequences for its citizens. The economy had stabilized and emerged from recession, and was posting satisfactory growth rates. Nevertheless, continued reforms and prudent financial management were still required, alongside efforts to boost the comparative advantages of the Cypriot economy. Falling unemployment in 2016 was expected to translate into positive socioeconomic indicators.

5. Legislation establishing a guaranteed minimum income had been passed in July 2014, with a view to strengthening the protection of vulnerable households and ensuring minimum living standards for those with limited financial resources to meet their basic needs. Those needs were calculated on the basis of a specifically created minimum consumption basket that included food, clothing, personal care, health, communications, transport, household costs and social inclusion costs. The guaranteed minimum income could be claimed by all Cypriot or European Union nationals, whether employed, self-employed or unemployed, provided they had legally resided in Cyprus for at least five years prior to submitting their application. Children with disabilities were also entitled to the benefit, which was expected to significantly reduce absolute poverty rates.

6. Under the circumstances specified by law, free legal aid was granted to asylum seekers and beneficiaries of international protection, as well as to the victims of trafficking, sexual abuse and exploitation and child pornography. It was also available in civil and criminal proceedings for violations of the human rights set forth in the Covenant, as well as in family court proceedings, cases concerning the sale of mortgaged property, cross-border disputes and other cases. Legal aid covered legal advice, the preparation of procedural documents, and representation in court.

7. Cyprus was in the process of evaluating its National Action Plan Against Trafficking in Human Beings 2013-2015 and had renewed the plan for the period 2016-2018, including actions in several strategic areas. The Government planned to amend current legislation and devise measures and campaigns to combat trafficking for the purposes of labour exploitation, sexual exploitation and marriages of convenience, and to train officers and judges to enforce the legislation.

8. In the area of non-discrimination and gender equality, a police policy statement for the prevention of discrimination and racist crime had been drafted in 2013, with an emphasis on developing proactive deterrent action, victim support and protection, and more effective intervention and investigation measures. The police had implemented capacity-building measures to identify and deal with hate crime and hate speech, in cooperation with the Office of the Commissioner for Administration and Human Rights (Ombudsman), the University of Cyprus and human rights NGOs. A national certification body had been established in April 2014 to evaluate enterprises on the implementation of best practices related to the principles of equal treatment and equal pay in the working environment. Although that programme had since concluded, the National Certification Body would continue to evaluate enterprises and to certify them as "equality employers". Women's participation in the labour market had been promoted through the Maternity Protection (Amendment) Law of 2015 (L.175(I)/2015), which provided for additional maternity leave in the event of multiple births. The Strategic Plan on Equality between Women and Men 2014-2017 had achieved positive outcomes in terms of the participation of women in decision-making positions in public and political life.

9. In the sphere of health, the Ministry of Health provided equal opportunities for the health care of all citizens, irrespective of socioeconomic status, and had developed programmes to reach vulnerable groups. For example, human papillomavirus vaccination was being provided free of charge for girls aged 13 and 14 years, through school health services. Asylum seekers and beneficiaries of international protection had been entitled to reduced-fee access to the public health system since 2013, while special provisions had introduced free health-care services for all pregnant women and children belonging to vulnerable groups, such as undocumented migrants.

10. The right to education was granted to everyone in Cyprus without distinction, and the Ministry of Education and Culture placed great emphasis on ensuring equal access for all children. Systematic efforts had been undertaken to make the structural changes needed to improve quality, while a three-year strategic plan for the period 2015-2017 aimed to ensure the provision of learning opportunities to all. The educational system in prisons had been upgraded in accordance with European rules and recommendations, bringing prison education into line with the adult education provided in the outside world. In 2015-2016, half of the prison population had attended educational programmes, including distance learning courses offered by private universities.

11. **The Chair** said that the Committee was gratified to note the importance that Cyprus attached to upholding and implementing the Covenant as a critical element of its laws, policies and practices.

12. **Mr. Abashidze** (Country Rapporteur) said that the Committee recognized the difficulties presented by the division of the country, which had meant that the Government was not in a position to ensure the enjoyment of human rights across the whole of its territory.

13. In respect of the domestic legal order, the State party in its replies to the list of issues had provided no new information but had referred back to its replies to the list of issues in connection with the fourth and fifth periodic reports; as a result, the Committee still required some clarification regarding the domestic legal status of the rights enshrined in the

Covenant. Recalling certain provisions set forth in the common core document, he said that he would like to know how the provisions of the Covenant were incorporated into the municipal law of Cyprus, and whether the rights contained in the Covenant were self-executing provisions, and if not, whether steps had been taken to harmonize them with the municipal law. He would also be interested to learn of any cases in which Covenant rights were invoked before, or applied by, domestic courts.

14. The Office of the Commissioner for Administration and Human Rights (Ombudsman) held category B status and was not in full compliance with the Paris Principles, owing to the persistence of doubts over the absence of a clear selection process for its members, the absence of explicit legal provisions on the functions of the Commissioner, and the adequacy of the funding allocated to the Office. Accordingly, he would be grateful for any information regarding steps taken by the Government to allay those doubts and to bring the activity of the Commissioner into line with the Paris Principles with a view to obtaining category A status.

15. Several amendments to the Refugee Law (L.6(I)/2000, as amended), had been adopted in recent years, and the asylum service was the first-instance decision-making body under the governance of the Ministry of Interior. In that context, the Committee had been advised that asylum seekers had no access to legal aid at the first-instance level, and it would therefore appreciate information on the measures taken to provide free legal aid to a wide range of individuals, especially disadvantaged and marginalized persons.

16. Although a number of antidiscrimination laws were enforced, the procedure for regular review of discriminatory laws was still lacking. Information would therefore be welcome on possible steps to increase the application of those antidiscrimination laws in courts.

17. In respect of non-discrimination under article 2 of the Covenant, asylum seekers were only granted access to employment six months after submitting an asylum application, and were only allowed to work in certain sectors, typically at low rates of pay, irrespective of their professional qualifications. They were also excluded from the guaranteed minimum income scheme. He would therefore like to know whether the Government had any plans to guarantee equal access to employment for asylum seekers, or to provide them with access to social assistance programmes, thereby fulfilling its obligations under articles 2, 6 and 11 of the Covenant.

18. Lastly, recalling the negative effects of the economic crisis and the macroeconomic programme, he would be grateful if the delegation could clarify what additional measures the Government had taken, in the form of State programmes, strategies or plans of action, to improve the situation and to implement the Sustainable Development Goals.

19. **Mr. Kedzia**, referring to article 6 of the Covenant, on the right to work, said that successful conclusion of the macroeconomic adjustment programme had led to welcome signs of recovery in the form of positive growth and an improving labour market. However, the extent to which that improvement was the result of measures taken under the adjustment programme, or in fact reflected a general improvement in the economic environment, was unclear. He would therefore be grateful for any information in that regard, as well as for data that might confirm positive trends in 2016, analytical comments that might prove useful for the dissemination of good practices, and disaggregated statistics, if any, on employment and unemployment trends during the previous five years.

20. He expressed appreciation for the State party's efforts to address youth unemployment and precarious employment through a multifaceted approach that included flexible measures, tailored to the needs of specific groups, ranging from the promotion of youth entrepreneurship to subsidies for the recruitment of unemployed persons. In that sense, the State party should give up-to-date information on youth employment and its

evolution under the influence of the adopted programmes and policies, as well as on the percentage of individuals working in precarious employment conditions, differences between youth employment in rural and urban areas, and whether the delegation considered the recruitment of 5,000 individuals under subsidy schemes, by the end of 2013, to be a satisfactory outcome in view of the overall context.

21. The Committee would like to learn more about the assessment of the project on "Actions for Reducing the Gender Pay Gap" and the measures taken to ensure the balanced participation of women and men in decision-making positions in public and political life. It would also welcome more information on the representation of women in business and the Government. Paragraph 79 of the replies to the list of issues, which stated that no violations of equal pay legislation had been witnessed, required further clarification in light of the data provided on the gender pay gap (a slight decrease to 15.4 per cent). He wished to know the estimated contribution of the informal economy to the gross domestic product and gross national product, as well as the percentage of the workforce involved in the informal economy. It would be helpful if the State party could elaborate on the measures taken to protect the labour rights of workers in the informal economy.

22. More information would be appreciated on the main findings of labour inspections with regard to the provision of just and favourable conditions of work, including fair remuneration and equal opportunities. With reference to paragraph 16 of the list of issues, the Committee also wished to know more about the findings of labour inspections of the working conditions of migrant workers, the situation of undocumented migrant workers and the measures taken to protect them from discrimination and labour exploitation, including the implementation of the Aliens and Immigration Law (Amendment) (L.100(I)/2012), and the protection of the rights of migrant workers who were not nationals of the European Union in farming and domestic settings. In addition, it was unclear whether migrant workers had access to judicial protection in the framework of the complaint procedure and how their situation, in that respect, compared to that of non-migrant workers.

23. With reference to paragraphs 72 and 73 of the State party's replies to the list of issues, and taking into account the fact that industrial relations were based on a voluntary system, he wished to know why there had been a decline in the proportion of employees covered by collective agreements and whether the latter had been replaced by another means. Given the limited legislation on industrial relations, he would like to know how the right to just and favourable conditions of work was guaranteed, including for non-unionized workers.

24. After inquiring whether the freeze on pensions under the social security fund would be waived from 2017 in the light of the economic recovery and whether informal workers had access to social security, including the pension system, he said that the State party should provide more extensive information on the guaranteed minimum income scheme in its next periodic report. In particular, he wished to know to what extent the social impact assessment undertaken as part of introducing the scheme had been human rights-based and guided by the principles enshrined in the Covenant. How many people benefited from the scheme, and did the calculation methodology guarantee the right to an adequate standard of living? Lastly, he inquired whether expectations related to the scheme had so far been met in terms of impacting on the State budget, tailoring support to needs and reducing poverty and social inequalities.

The meeting was suspended at 3.50 p.m. and resumed at 4.10 p.m.

25. **Ms. Koursoumba** (Cyprus) said that the Constitution, which took precedence over all other domestic legislation, began with a bill of rights. The Covenant, in turn, took precedence over all domestic law, and any decision or legislation that was found to contravene the Covenant was declared illegal. Since ratification of the Covenant in 1969, a

number of laws had been enacted in order to implement some of its specific provisions, for example on the right to fair wages. The Covenant was rarely invoked in court because the Constitution, with its bill of rights, usually provided sufficient grounds for issuing judgments. The functioning of the Office of the Ombudsman, an independent national human rights institution, did not fully comply with the Paris Principles; the Office was unable to elect its own staff, for example. Unlike all other government departments and independent authorities, it had not been granted a budget increase in recent years, but its budget should be raised once the financial crisis had passed. The competences of the Ombudsman were established by law, and the Government could decide to extend those competences through the introduction of specific provisions. The Committee would be provided with an English translation of the relevant legislation shortly.

26. With regard to legal aid for asylum seekers, progress had been made in 2016 with the establishment of a new administrative court which could investigate the substance of decisions on asylum. Legal aid was provided in such cases. Asylum seekers also received legal aid if they wished to lodge an appeal with the Supreme Court.

27. **Ms. Andreou** (Cyprus) said that the State party tried to provide appropriate reception conditions for asylum seekers, so long as they complied with the relevant requirements. Financial aid had partly been replaced by material aid, including vouchers for food and clothing that could be redeemed at providers throughout the island and reimbursement for electricity and other expenses. The sectors in which asylum seekers could be employed were determined according to labour market needs and were limited, in order to prevent abuse of the asylum system. Those granted asylum could subsequently apply to work in any sector of the economy. With regard to the impact of the economic crisis, there was now a positive outlook for the economy and thus for the welfare of the Cypriot people. The State party was proud to have exited the macroeconomic adjustment programme without the need for a successor arrangement. Structural reforms had helped to boost the economy and growth had reached its highest level in seven years in 2015. The business sector was showing resilience and the tourism sector was performing better than expected. Confidence in the banking sector had gradually recovered and the capital restrictions imposed in 2013 had been fully removed in April 2015. Some further measures needed to be taken to safeguard stability and sustainable growth, including steps to address the high levels of household and corporate debt. The guaranteed minimum income scheme, which had been designed in collaboration with the International Labour Organization (ILO), was an important step towards a better welfare system. In terms of poverty and social exclusion, many encouraging trends had been noted.

28. The Government was undertaking a major reform of the welfare system because benefits had previously been too fragmented, poorly targeted and vulnerable to abuse. Moreover, the system had given people little incentive to rejoin the labour market, which was its ultimate aim.

29. In the interests of comprehensive governance, a single social welfare administration service had been established under the Ministry of Labour, Welfare and Social Insurance. A national registry of beneficiaries and a reliable verification and control system had also been created.

30. At the heart of the reform was the guaranteed minimum income scheme, which would eventually replace the public assistance scheme. The guaranteed minimum income was a top-up allowance enabling eligible households to meet their basic needs.

31. The income was provided to, among others, a group of persons who had not been receiving any income support benefit in the past, namely the working poor. While some benefits, such as student grants, were still provided outside the scheme, efforts were being made to centralize all available data.

32. The purpose of having clear eligibility criteria and of cross-checking information with third-party sources under the scheme was to ensure that resources were allocated to those most in need. Rejected applicants had the possibility of appeal.

33. Despite the fact that certain eligibility criteria had been relaxed, the introduction of the scheme had led to a significant fall in the number of beneficiaries, from 61,500 families prior to the reform to 25,508 in March 2016. The decrease could be attributed to a lower than expected number of applications from retirees and to a relatively high rejection rate of 63 per cent, largely owing to assets and deposits that exceeded established thresholds.

34. Of the heads of household receiving the income, 27 per cent were unemployed, 16 per cent were working poor, 21 per cent were pensioners and 36 per cent were inactive on account of disability, domestic care responsibilities or other reasons.

35. The new scheme provided much stronger mechanisms for labour market reintegration. To qualify for the income, persons had to be registered with the public employment services and to look for a job if they were unemployed, or better-paid work if they belonged to the working poor. Once registered, recipients could not turn down a job offer without acceptable justification.

36. The scheme also established a framework for social intervention and for the provision of social care, thanks to which recipients benefited from a contribution towards the cost of home, institutional, respite and day care.

37. The implementation of the scheme, including its fiscal impact, was monitored through the preparation of quarterly costing updates and through beneficiary profile analysis. An assessment report on several aspects of the scheme would be prepared as soon as the transfer of beneficiaries under the public assistance scheme had been completed.

38. In Cyprus, the informal economy was considered illegal and thus did not exist as such. Inspections were carried out to ensure that undeclared workers formalized their employment and paid social security contributions, which were compulsory.

39. The project on "Actions for Reducing the Gender Pay Gap", which had ended in December 2015, had led to more effective control of the implementation of equality laws and had involved offering incentives to businesses to encourage the adoption of good practices and awareness-raising on pay equality among employers and workers. Under the project, steps had also been taken to combat employment segregation and stereotypes. The gender gap in employment had fallen from 14 percentage points in 2009 to 7.7 in 2015. Perhaps most significantly, the gap was smallest among persons aged 15 to 24 years.

40. **Ms. Bras Gomes** asked to what extent the Government had been able to restore the level of social protection afforded prior to the introduction of austerity measures during the period under review. She invited the delegation to comment on the negative appraisal of the guaranteed minimum income scheme by the European Foundation for the Improvement of Living and Working Conditions and asked what support, if any, was given to persons who did not meet the eligibility criteria for the income but who had been covered under the public assistance scheme that it had replaced.

41. **Mr. Kedzia** said that he would like to hear about some of the challenges faced in the implementation of the guaranteed minimum income scheme. As the scheme had been in place for a relatively short time, the information could perhaps be provided in the State party's next periodic report.

42. **Mr. Abashidze** asked why, under the new detention policy, persons who had been detained pursuant to a deportation order and had subsequently applied for asylum were not released immediately and said that additional steps should be taken to prevent unjustified deprivation of liberty.

43. He would welcome information on disability benefits and on the implementation of the Act on the Recruitment of Persons with Disabilities in the Wider Public Sector. The delegation should explain how sectoral minimum wages were calculated and why so few persons were covered by such a wage. It should also provide details of compensation for overtime work and of paid sick leave arrangements in various sectors. Noting that self-employed women were not entitled to paid maternity leave, he asked why the Mother's Allowance and the universal cash benefit scheme to support families with children had been abolished.

44. **Mr. Abdel-Moneim** asked how the fulfilment of economic, social and cultural rights was monitored in the Sovereign Base Areas of Akrotiri and Dhekelia, and to what extent the State party's economic partners took into account General Assembly resolutions on island States.

45. **The Chair** said that the status and justiciability of the Covenant rights had not yet been fully clarified, despite the fact that Cyprus had submitted numerous reports to the Committee, whose members, therefore, still found themselves asking elementary questions. It was not sufficient merely to state that the Constitution accorded supremacy to the Covenant. The Committee required judicial proof of the direct application of the Covenant provisions in the domestic or municipal legal order. The fact that the Covenant rights had not been invoked before or applied by domestic courts, or that there was no evidence to that effect, suggested that there was a problem. He hoped that comprehensive answers would be provided in the State party's next periodic report, so as to allay the concerns of Committee members.

46. **Ms. Koursoumba** (Cyprus) said that the Covenant rights were justiciable in that violations of them were actionable in court under specific laws enacted to give effect to the Covenant. As always, the Committee's concluding observations would be conveyed to the Government and disseminated as appropriate. It should be recalled, however, that the judiciary was independent and could not be instructed how to act.

47. **Ms. Andreou** (Cyprus) said that, while the guaranteed minimum income scheme had been the subject of a negative evaluation, it had also been praised by many bodies, including ILO, which had presented it as a model to be followed in other countries. The fall in the number of persons receiving benefits since the introduction of the scheme was indicative of the fact that the public assistance scheme that had preceded it had been vulnerable to abuse. The scheme was being constantly developed, and any gaps or weaknesses would be addressed as and when they appeared.

48. Minimum monthly wages were applicable to certain sectors of the labour market only. The collective bargaining system, which was flexible and fair, had traditionally played a leading role in the regulation of wages, which could be renegotiated whenever necessary. Cyprus attached great importance to social dialogue and, accordingly, had ratified the ILO Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).

49. **Ms. Georgiadou** (Cyprus) said that asylum seekers were eligible for legal aid at all stages of the asylum process, but that the authorities had not deemed it necessary to provide legal aid for filling out the application, given that the form was quite simple. The policy to detain asylum seekers had been in place since 2014. When third-country nationals submitted an application for international protection once in detention pending deportation, they were not immediately released but the deportation order was suspended. The asylum services were then informed and an accelerated procedure was launched, leading to a decision within 30 days. The procedure was in line with European standards. The policy on the length of contracts for domestic workers had been relaxed, extending contracts from four to six years. The minimum monthly salary in that field was 460 euros.

50. **Ms. Demetriou** (Cyprus) said that the struggle against discrimination was a government priority, and a comprehensive anti-discrimination framework was in place that included a number of articles of the Constitution. Furthermore, a discrimination dimension had been introduced in the definition of some criminal offences, and hate speech and incitement to hatred were penalized. The Attorney-General had stressed that discrimination was an aggravating circumstance of offences, and the police received training on the investigation of racially motivated crimes. Relevant data were available on the police's website. Same-sex couples enjoyed the same rights as heterosexual couples under the Marriage Act.

51. **Ms. Andreou** (Cyprus) said that the pension system had been reformed to raise the minimum retirement age and introduce a penalty for early retirement, among other changes designed to make the system more viable. The freeze on pensions was temporary and would be lifted. All gainfully employed persons were required to contribute to the pension system, even if they worked in the informal market. The level of social security benefits exceeded European standards.

52. **Ms. Ravenberg**, pointing out that the definition of marital property continued to discriminate against women, asked what was being done to ensure the broadest possible protection of families and to protect women in case of separation. Regarding domestic violence, she asked what steps were being taken to reduce the incidence of domestic violence, what the number and quality of shelters for victims were, what the impact of the national action plan on preventing and handling family violence 2010-2013 had been, and whether a successor plan had been adopted. She wished to know what the State party's policy was with regard to human trafficking, whether there was a mechanism to identify victims and refer them to assistance services, what remedies were available to victims, why the conviction rate was so low, and what the results of the Combating of Trafficking and the Exploitation of Human Beings and the Protection of Victims Law had been. Noting the State party's claim that there were no homeless persons in the country, she requested further information about the methodology used in the census. Lastly, she enquired about the measures in place to ensure that everyone enjoyed the highest attainable standard of mental and physical health and to address the lack of training of health-care professionals and inadequate sexual and reproductive health services.

53. **Mr. Kerdoun** said that, despite the State party's well-developed education system, problems subsisted for Turkish-Cypriot and Roma students and students with disabilities. Accordingly, he asked how the State party intended to facilitate the access of Turkish-Cypriot university students to European exchange programmes and to offset the shortage of Turkish-speaking teachers. He urged the State party to step up its efforts to remove the economic and cultural barriers to education for girls, especially those from minority groups. He also asked how the State party planned to resolve the problems arising from the fact that the national strategy for Roma integration did not cover the zones of educational priority, meaning that the numerous Roma who lived there could not obtain instruction in their mother tongue. He wished to know how the State party addressed the special education needs of students with disabilities. He invited the delegation to comment on complaints that history textbooks were one-sided and omitted the contribution of certain ethnic or national groups and on plans to engage in a review of the textbooks.

The meeting rose at 5.55 p.m.

United Nations E/C.12/2016/SR.54

Economic and Social Council

Distr.: General
23 September 2016

Original: English

Committee on Economic, Social and Cultural Rights

Fifty-ninth session

Summary record of the 54th meeting

Held at the Palais des Nations, Geneva, on Wednesday, 21 September 2016, at 10 a.m.

Chair: Mr. Sadi

Contents

Consideration of reports (*continued*)

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Sixth periodic report of Cyprus (continued)

This record is subject to correction.

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The meeting was called to order at 10 a.m.

Consideration of reports (*continued*)

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Sixth periodic report of Cyprus (continued) (E/C.12/CYP/6; E/C.12/CYP/Q/6 and Add.1)

1. *At the invitation of the Chair, the delegation of Cyprus took places at the Committee table.*

2. **Ms. Koursoumba** (Cyprus) said that, despite the austerity programmes instituted by the Government, social protection remained as comprehensive as it had previously been, but it was now targeted towards those most in need, with stronger mechanisms to help people enter the labour market.

3. An elementary school in Limassol had 23 Roma pupils of Turkish Cypriot origin. They were taught Turkish, and since 2013 had been given the option of studying the Kurbetcha dialect; five of them had chosen to do so. The pupils were concentrated in one school because their families chose to live in the same community; the State did not practise the segregation of such children. Elementary schools could offer classes in Turkish, but a minimum of five pupils was required to make them viable. A number of children travelled daily from the occupied areas of Cyprus to attend a private school in Nicosia, with the Government paying their school fees.

4. **Ms. Andreou** (Cyprus) said that unemployment levels had been improved by the timely measures put in place by the Government to help people into work and targeted programmes for young people and the long-term unemployed. The Public Employment Services had been strengthened, and funding from the European Union had been mobilized for specific programmes. The youth unemployment rate was currently 24 per cent, compared to just under 33 per cent in 2005. In urban areas, 5,000 young people were unemployed, while in rural areas the figure stood at 2,200. A total of 51,000 people held part-time employment, while 46,000 had temporary contracts. Of the 42,000 people who were unemployed, 5,000 had been helped into work by the Government's programmes, while many more had been supported by the Public Employment Services.

5. Equal pay inspections were designed to determine whether a particular employer provided equal pay and working conditions to both men and women doing the same job. The fact that the 1,000 inspections conducted had found no violations was a reflection of that approach; the gender pay gap, which related to the economy as a whole, was due to the different education choices made by men and women and preferences for certain occupations. The proportion of women in higher skilled occupations had risen from 43 per cent in 2009 to 48 per cent in 2015, while the proportion of women in employment who had completed tertiary education had increased from 42 per cent in 2009 to 50 per cent in 2015.

6. In 2015, inspectors had found 2,251 undeclared workers during 6,235 inspections and imposed 1,210 fines. In 2005, 9,266 inspections of working conditions in shops, recreation centres, factories and other workplaces had resulted in the preparation of 383 criminal files, with 458 cases tried and €250,000 imposed in fines. A total of 21 per cent of employers had been found to violate the obligation to provide written terms of employment, and 11 per cent had violated minimum wage legislation.

7. Migrant workers from outside the European Union received written contracts authorized by the Ministry of Labour, Welfare and Social Insurance before leaving their country of origin. The first line of protection for migrant workers was the complaints

mechanism, which offered three options for the resolution of cases: voluntary return to work by the employee, the signing of a release agreement, or voluntary return to the country of origin. Of the 888 complaints made in 2015, 558 had been resolved through one of the three options. The maximum length of stay on domestic and agricultural work permits had been increased from four to six years. The Safety and Health at Work Act had been amended to cover domestic households.

8. Between 2010 and 2015, 100 persons with disabilities were employed in the public sector; that figure had not increased owing to a general freeze on recruitment. The Government provided a range of benefits for persons with disabilities, including care and mobility allowances, parking schemes and financial support for technical aids.

9. The provision for a minimum of four weeks of paid leave per year was in line with the European Union Working Time Directive. Legislation governing overtime was in place for certain categories of workers, including hotel and catering employees. For other occupations, overtime was subject to individual agreements made at the time of recruitment, or was covered by collective agreements.

10. Women received maternity benefits for a period of 18 weeks regardless of whether they were employed or self-employed. The Government had abolished the mother's allowance so that the €22 million budget allocated to it could be targeted on those in need.

11. The Government's measures to tackle domestic violence included encouraging people to report offences, running public awareness campaigns, and improving data collection and research on the issue. A manual on interdepartmental cooperation on domestic violence was available, and a separate manual of domestic violence towards children was in development. Officials in the ministries of health, education and culture, justice and public order, and labour, welfare and social insurance had a mandatory duty to report all allegations or evidence of domestic violence to the Attorney-General's Office. Failure to report a case of violence against a minor or a person with intellectual disabilities constituted an offence. The Association for the Prevention and Handling of Violence in the Family operated a helpline and two shelters providing comprehensive support for victims of domestic violence. In 2015, the shelter in Nicosia had supported 9 women and 13 children, while the shelter in Paphos had supported 13 women and 18 children. No complaints had been received about the services provided by the shelters. The Advisory Committee for the Prevention and Combating of Domestic Violence had prepared a new action plan, which was expected to receive ministerial approval by the end of 2016. The new plan incorporated the findings from the evaluation of the previous plan, including the need to improve interdepartmental coordination and gender mainstreaming, as well as the concluding observations of the Committee on the Elimination of Discrimination against Women on the combined sixth and seventh periodic reports of Cyprus (CEDAW/C/CYP/CO/6-7), and the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention).

12. The Private Employment Agencies Law was designed to improve regulation of the operations of such agencies and to combat the exploitation of migrant workers. In 2005, the authorities had inspected 115 of the 134 agencies in operation and revoked the licences of 15 of them. Annual training on human trafficking was provided to agency staff members.

13. In Cyprus the problem of homelessness did not exist: any cases that were observed were dealt with immediately.

14. **Ms. Georgiadou** (Cyprus) said that the Prevention and Combating of Trafficking and Sexual Exploitation of Persons and the Protection of Victims Law, which had entered into force in April 2014, provided for jail sentences of up to 10 years or a fine of €15,000, or both, for persons convicted of trafficking offences. The Act also established an external evaluation mechanism to monitor trends and provide assessment reports. A fund was in

place to provide support, including legal aid, to victims. Under the national referral mechanism, any person identified by a government department or NGO as a potential victim of trafficking was referred to the social welfare system. Regardless of whether or not they cooperated with prosecutions, victims had the right to free legal aid if they lacked financial means, and to compensation and temporary residence permits. Traffickers were liable for the payment of damages to victims. The national referral mechanism had been approved in May 2016, and personnel in frontline services were currently undergoing training to prepare for implementation. Social Welfare Services informed victims of their rights and options regarding accommodation, financial assistance and medical care; following an evaluation of their needs, they were referred to the appropriate authority or NGO for support and assistance. There was one State-owned shelter for female victims of trafficking for sexual exploitation in Nicosia, which had been operating since 2015 with a capacity of 15 places and generally provided accommodation for a maximum of four weeks. Male victims and female victims who did not wish to stay at the shelter received financial support, including an allocation for accommodation expenses.

15. It was true that, as a result of the economic crisis, public spending had been cut, and all sectors, including health, had been affected by the austerity measures taken by the Government since 2013. Special measures had been taken to counterbalance the reduction of funding in the public health system and ensure that the financial burden on patients was not excessive. The introduction of a €10 fee to access emergency room facilities, a co-payment system, and user charges for outpatient and inpatient hospital services had all contributed to curtailing excessive demand. Free access was provided to many vulnerable groups, such as children, pregnant women, and the children of illegal migrants. All public and private hospitals had a complaints office that was obliged to respond to complaints within a maximum of two days. Seventy-five per cent of the population were entitled to public health care; the remaining 25 per cent were typically ineligible because they exceeded the income threshold. Access to quality health care was expected to be enhanced through moves to make public hospitals autonomous and introduce the national health system, which were to be completed by 2020. All public health personnel received frequent training on such subjects as treatment of victims of domestic violence and non-discrimination, including specific training regarding intersex persons. The European Union had allocated a total of €956 million to the Cypriot health sector for the period from 2014 to 2020.

16. Under the Spouses Property Relations Law, if a marriage was dissolved by death or divorce, or if the spouses were separated for more than three years, each spouse was entitled to a share in the property acquired by the other during the marriage, proportionate to the amount by which each spouse could show that he or she had contributed to the increase in the other's property. Housework and raising children were deemed to be contributions. In any event, the spouse with the lesser contribution was entitled to one third of the property acquired by the other during the marriage, without having to prove his or her contribution. Property acquired as a gift or inheritance could not be included in the settlement. Regarding the protection of women in cases of separation, under the Constitution, every person had the right to free legal assistance where the interests of justice so required and as provided by law. Under the relevant legislation, free legal aid, advice and representation was to be granted, inter alia, for cases before the family law courts and those involving violations of human rights treaty obligations, such as those under the Covenant and the Convention on the Elimination of All Forms of Discrimination against Women.

17. **Ms. Demetriou** (Cyprus) said that the discrepancy between the number of cases of domestic violence reported and the low rate of convictions was seen in all European countries. In Cyprus, approximately three-quarters of cases resulted in conviction and one quarter in acquittal. Data collected by the Government on domestic violence were available

on the Cyprus Police website. Efforts were made in the area of public awareness-raising, and police officers were routinely trained on the legislation and procedures to be followed in cases of domestic violence, as well as on the psychosocial aspects of domestic violence. Training was also provided on dealing with juvenile victims of domestic violence and sexual abuse. During its presidency of the Council of the European Union, Cyprus, in cooperation with other member States, had drafted a handbook of best police practices on overcoming attrition in domestic violence cases. Cyprus Police had participated in the elaboration of the handbook for European police officers on standardized tools of domestic violence risk assessment.

18. With regard to the right to education, girls from minorities were encouraged to participate in higher education in the same way as all other girls. Changing stereotypes and attitudes with regard to gender roles in all aspects of life was a priority area in the educational framework. According to statistics from 2013, gross enrolment in tertiary education was 42 per cent male and 58 per cent female. The Agency of Quality Assurance and Accreditation in Higher Education had recently been established with the objective of increasing the quality of higher education in Cyprus. A proposal providing for an alternative means of admission to public universities was pending enactment, as were revised regulations on the functioning of secondary schools. A law providing for a new system for the appointment of teachers had been adopted in 2015. Students from national religious minority groups could attend any public or private school of their choice; tuition fees and other expenses were fully subsidized by the Government if they opted to attend private school. Specific plans were in place for the protection and promotion of the Cypriot Maronite, Arabic and Armenian languages.

19. There was a comprehensive legislative framework regulating all matters related to the education of children with special educational needs in public schools. The majority of children with special needs were educated in mainstream classrooms, but there were also special units in mainstream schools. Children with severe or multiple disabilities were educated in special schools, which provided educational and therapeutic support through special educators and professionals such as psychologists, speech therapists, occupational therapists and physiotherapists. Every effort was made to keep children with disabilities in inclusive education by facilitating their attendance with free transportation, assistive technology and appropriate infrastructure. The aim was to provide children with disabilities with equal opportunities in education, eliminating physical barriers and social discrimination. In 2011, the Commissioner for Children's Rights had made numerous recommendations to bring existing legislation and practice related to children with disabilities in line with international human rights instruments, particularly the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities.

20. Turkish Cypriot students could attend a public or private school of their choice; if they chose a private school in a Government-controlled area, the fees were fully subsidized. Since 2006, the number of Turkish Cypriot students, all of whom self-identified as Roma, attending Agios Antonios primary school had decreased from 47 to 23. Despite that decrease, the number of Turkish-speaking teachers and interpreters had remained the same. In general, the pupil-teacher ratio was one teacher for every 25 students, but in Agios Antonios primary school there were two teachers and one interpreter for the 23 students. The main challenge with respect to the education of the Roma was persuading families to enrol their children in school. Special measures had been taken to support the social inclusion of Turkish Cypriot, Roma and other vulnerable students in schools, such as the provision of bilingual teachers to facilitate communication between teachers, students and parents, the provision of meals and special psychological and social welfare support to Roma students, and the organization of intercultural activities. In every school with more than five students who spoke Kurbetcha, classes were formed and they were taught their culture and history in their mother tongue. Turkish Cypriots had limited access to European

exchange and educational programmes because the universities in the occupied areas, which were not under the effective control of Cyprus, did not operate in compliance with Cypriot laws and regulations on higher education and were thus not recognized by the international community. However, under the European Union Scholarship Programme for the Turkish Cypriot Community, scholarships were awarded to students, teachers and researchers to increase their knowledge and skills in a specific field and offer them the experience of living and studying in a different environment. The Government of Cyprus fully supported the Programme.

21. With regard to the history curriculum, emphasis was placed on aspects that united the communities of Cyprus, without distortion of historical events. Schools had been provided with supplementary educational material in Greek, Turkish and English prepared by the Association for Historical Dialogue and Research, with the support of the United Nations Development Programme's Action for Cooperation and Trust Programme, to foster multiperspectivity, historical understanding and critical thinking. Every effort was made to ensure that no biased language was used, and school textbooks did not include any derogatory categorizations or stereotypes of Turkish Cypriots, Turks or any other nationality.

22. **Ms. Koursoumba** (Cyprus) said that the authority of the United Kingdom over the Sovereign Base Areas was enshrined in the Treaty concerning the Establishment of the Republic of Cyprus. It was, therefore, for the United Kingdom to respond to the question about the monitoring of human rights there. Nonetheless, under the terms of memorandums of understanding attached to the Treaty of Establishment, the Sovereign Base Areas undertook to enact legislation similar to that of the Republic of Cyprus, also in matters relating to human rights and the implementation of human rights treaties. In fact, in 2004, the Areas had enacted the Human Rights Ordinance, which was said to incorporate the provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

23. The United Nations had identified 52 countries that fell into the category of small island developing States. Although Cyprus was not one of them, it shared similar sustainable development challenges such as a small but growing population, limited resources, a fragile environment and vulnerability to external shocks. The Government was seeking to develop relevant policies in that regard.

24. **Mr. Pillay** said that he would appreciate more information about the results of measures taken to alleviate and combat poverty, particularly among older persons. He wondered what effect a reduction in the budget allocated to housing had had upon disadvantaged and displaced persons and wished to know whether there were any plans to build low-cost housing units.

25. He would be interested to know how many people had suffered forced eviction and which categories of the population had been most affected. If rental arrears were one of the main reasons for forced eviction, why was government assistance with rent payments not provided beforehand? Were there any legislative safeguards in that regard and were they in line with the Committee's general comment No. 7? Finally, he would be interested to know what happened to persons who had been evicted, particularly in view of the delegation's statement that there was no homelessness in Cyprus.

26. **Ms. Shin** said that she would like to know what steps were being taken to ensure equal pay for work of equal value. She would also appreciate any information the delegation could provide about measures to tackle the related issue of job segregation by gender, whereby lower-paid jobs, such as cleaning, tended to be done by women and higher-paid work, such as maintenance, tended to be the prerogative of men.

27. It would be helpful to know what percentage of persons with disabilities and special needs was covered by government assistance programmes and whether those programmes guaranteed them an adequate standard of living in line with the Covenant. The State party was clearly doing a lot to combat domestic violence but she wished to know whether, in addition to prevention measures, its efforts also included education and counselling to change the behaviour of perpetrators or potential perpetrators.

28. **Mr. Kerdoun** said that the system of public education in Cyprus ranked highly against those of other European Union countries. Nonetheless, there were problems and he wished to know if the Government was contemplating more energetic and effective measures to address them.

29. **Mr. Abashidze** (Country Rapporteur) said that he would like to know more about plans to introduce universal health insurance, about any mechanisms in place for the early identification of children with special needs, about the legal definition of inclusive education and about the protection of cultural heritage sites located in areas not under the effective control of the Government.

30. **Mr. Abdel-Moneim** said that human rights and the concept of their universality were far more deeply consolidated than they had been when the Sovereign Base Areas were established in the early 1960s. The requirement for transparency in matters concerning human rights was also much greater, and a number of instruments could be invoked vis-à-vis the situation in those Areas. Small island States could be defined not just in terms of size but also of resources. The Covenant should be invoked in any resolution on such States presented to the General Assembly of the United Nations.

31. **Mr. Kedzia** said that he had understood from the delegation's replies that migrant workers in disagreement with their employers could appeal to the courts in cases involving wage disputes. He wished to know if such workers could also have recourse to the law in other matters such as disagreements over conditions of work or employment. Were their rights in that regard the same as those of Cypriot workers?

32. Could the delegation tell the Committee what percentage of the overall labour market fell into the category of what the periodic report called "undeclared work"? He wondered whether the only measure used to combat that phenomenon was labour inspections. Were persons employed in the informal economy able to exercise their labour rights and access social security?

33. **The Chair** asked whether Cyprus had been affected to the same extent as other countries in the region by the influx of refugees fleeing the civil war in Syria.

The meeting was suspended at 11.35 a.m. and resumed at 12.10 p.m. Owing to a problem with the sound equipment, the discussion between 12.10 p.m. and 12.20 p.m. could not be covered in the summary record.

34. **Ms. Koursoumba** (Cyprus) said that, in accordance with the system that had been developed for receiving refugees, the civil defence services immediately informed the welfare and health-care services of the arrival of refugees so that they could be provided with any necessary support, including psychological support. The Red Cross also played a role in helping to accommodate refugee children in reception centres.

35. **Mr. Ignatiou** (Cyprus) said that all islands, not only small ones, faced problems such as a lack of resources, fluctuating environmental conditions and vulnerability. As a Permanent Representative in Geneva, he could not comment on the drafting of General Assembly resolutions, but he would transmit the suggestion made to his Ministry.

36. His Government attached great importance to the protection of cultural heritage. As part of the ongoing negotiations aimed at resolving the Cyprus question, two technical

committees had been established to address the protection and restoration of archaeological, cultural and religious sites. A dialogue on that issue was also being conducted between the religious leaders of the two communities. The Special Rapporteur on freedom of religion or belief and the Special Rapporteur in the field of cultural rights had visited Cyprus and learned about that dialogue. Moreover, the Permanent Mission of Cyprus had joined a core group of countries which was drafting a resolution for submission to the Human Rights Council on the protection of cultural heritage and cultural rights.

37. **Ms. Andreou** (Cyprus) said that social indicators had withstood the economic crisis and the contraction of the labour market relatively well. The number of people at risk of poverty or social exclusion had risen between 2009 and 2013 but had fallen slightly over the following year. Other indicators of poverty, including the severe material deprivation rate and the percentage of children at risk of poverty, had also fallen. Through the Operational Programme funded by the European Social Fund, the Cypriot authorities had committed themselves to taking additional action to tackle social exclusion, especially among children.

38. The housing allowance was provided by the guaranteed minimum income when the beneficiary was either renting a property or living in a property on which he or she had taken out a mortgage. For persons with disabilities, the total housing allowance could be increased by between 20 and 50 per cent.

39. Legislation existed to ensure that men and women were paid equally for the same work. When a system of professional classification was used to determine salaries, the system in question had to be designed in a way that would exclude the possibility of gender-based discrimination. The Ministry of Labour, Welfare and Social Insurance was obliged to inform all employers of the provisions of equal pay legislation, and any employer who violated that legislation would be subject to fines. A large-scale campaign had also been carried out to inform all members of the public, employers and organizations about the provisions of equal pay legislation.

40. All persons with disabilities were entitled to receive monetary benefits in addition to the basic needs allowance covered by the guaranteed minimum income. As a result, the standard of living of persons with disabilities was sufficiently protected.

41. Migrant workers had the right to appeal against decisions issued by the complaints mechanism and could also seek help from mediators and facilitators or lodge appeals with the Labour Court.

42. Inspections and a dedicated hotline for receiving complaints had made it possible to determine that 17 per cent of the total labour force worked in the informal economy. All employers reported to the hotline in 2015 had been investigated.

43. **Ms. Georgiadou** (Cyprus) said that 720 Syrian nationals had arrived in Cyprus by sea since September 2014. Cyprus had been criticized for not having been sufficiently prepared to receive refugees. Subsequently, a contingency plan had been drawn up that covered every aspect of the reception process, from the medical treatment given to refugees to the meals, clothes and support that they received. All relevant services, including the Asylum Service, participated in the process. An impressive level of support and donations for refugees had also been provided by volunteers who were not members of NGOs.

44. Turning to the question of universal health coverage, she said that, although the current health-care system could not be described as universal, it provided care to around 75 per cent of the population. The remaining 25 per cent of the population fell outside its scope either because their income was too high or because they did not contribute to the system. Slow but sure progress was being made in the implementation of a universal national health service that would provide high-quality care to all members of the

population. As a result of the reforms that were due to take place, hospitals would be granted more autonomy, primary health care would be modernized, and university clinics would be established, among other measures. A detailed plan for the restructuring of primary health care was being finalized. A pilot scheme to test the new plan was being implemented at one rural medical centre, and the opening hours of medical centres in Nicosia were being extended.

45. **Ms. Demetriou** (Cyprus) said that victims of domestic violence were supported by multidisciplinary teams of government officials and members of NGOs. A mechanism had been established for dealing with complaints from the moment when a report of domestic violence was first received by the police. Counselling was provided to perpetrators by members of NGOs working on a voluntary basis, and family counselling was also provided to both perpetrators and victims if they agreed to receive it.

46. The degree to which the Government supported inclusive education was reflected by the fact that, in 2016, a greater proportion of the budget for school transportation had been allocated to children with special needs than to the much larger number of children who did not have special needs.

47. **Mr. Abashidze** said that the purpose of the questions asked by the Committee had been to obtain a clear picture of the progress that the State party had made and the problems that it faced. The dialogue should not be seen as one-sided: the Committee had been enriched by its interaction with the delegation and had benefited from learning about innovative practices such as the guaranteed minimum income scheme. To conclude, he expressed his hope that the State party would ratify the Optional Protocol to the Covenant.

48. **Ms. Koursoumba** (Cyprus) said that the recommendations made by the Committee would be submitted to the highest executive body of the Government, the Council of Ministers, and would duly be considered when government policy was formulated. Respect for human rights, including social, economic and cultural rights, was a top priority for the Government of Cyprus. Despite the economic difficulties faced by the country, which had affected every sector of the economy, Cyprus was determined to continue its efforts to enhance, promote and safeguard human rights.

49. **The Chair** expressed his hope that the Concluding Observations made by the Committee would be considered by the Government, the judiciary, and all those responsible for implementing the Covenant in Cyprus. He also hoped that Cyprus would ratify the Optional Protocol, as that would send the clearest possible signal of its commitment to the Covenant.

The meeting rose at 12.50 p.m.

United Nations E/C.12/2016/SR.55

Economic and Social Council

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Committee on Economic, Social and Cultural Rights

Fifty-ninth session

Summary record of the 55th meeting

Held at the Palais des Nations, Geneva, on Wednesday, 21 September 2016, at 3 p.m.

Chair: Mr. Sadi

Contents

Consideration of reports (*continued*)

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Sixth periodic report of Poland

This record is subject to correction.

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Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

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The meeting was called to order at 3 p.m.

Consideration of reports (*continued*)

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Sixth periodic report of Poland (E/C.12/POL/6; E/C.12/POL/Q/6 and Add.1)

1. *At the invitation of the Chair, the delegation of Poland took places at the Committee table.*

2. **Mr. Zieleniecki** (Poland) said that the Government's main social policy objective was to address negative demographic trends by creating incentives to promote parenthood. The number of care facilities for small children had increased six-fold in five years. Family benefits, including for parents of disabled children, had been raised and the eligibility criteria had been broadened in 2016. Families also received discounts on rail travel and shopping, as well as a child allowance. The main goals of the national housing programme for the period up to 2030 were to increase access to housing and to improve housing conditions.

3. A number of measures had been introduced to combat domestic violence: the Blue Card procedure was aimed at improving police response to complaints and the Act on Counteracting Domestic Violence was being amended to provide better victim protection and ensure family autonomy. Although surveys conducted in 2014 had shown that the level of domestic violence in Poland had fallen, further action was still needed; the Government would continue to address the problem through its programme for the prevention of domestic violence for 2014-2020. The State party had taken steps to bring its legislation into line with Council of Europe conventions and European Union directives on combating child pornography and the sexual exploitation of children. The law enforcement agencies were working closely with those of other States to combat online child pornography.

4. From 2017, local authorities would be obliged to offer kindergarten places to all children from the age of 3 and, as of the 2017/18 school year, schoolbooks would be provided free of charge to all pupils of primary and junior high schools. Improvements had been made in 2008 to the psychological and educational support available for disabled children. Vocational and in-service training had been adapted to the needs of the labour market. In the area of health care, spending had been increased from 40 billion zlotys (Zl) in 2007 to Zl 67 billion in 2015, and selected medicines, food and medical devices were now free for persons over 75 years of age. Work was under way on the national health programme for 2016-2020, which would focus on health promotion and prevention.

5. Despite the recent global economic crisis, labour market indicators were encouraging and unemployment had dropped to its lowest level in 25 years. Amendments to legislation had focussed on supporting the most disadvantaged groups — those under 25 or over 50 years of age — and a national vocational training fund had been established. New labour code provisions offered workers greater protection, with fixed-term contracts, a new obligation for employers to confirm the terms of a contract in writing before the contract start date and a guaranteed minimum wage for workers employed under civil-law contracts. A new Labour Code was being developed, the new social dialogue council had replaced the previous tripartite commission and a ruling by the Constitutional Court had extended trade union rights to persons employed under civil-law contracts and self-employed persons. The pension system review would take account of the conclusions of the discussions being held by the social dialogue council on key social security issues, with particular focus on support for the poorest pensioners and for disabled pensioners.

6. **The Chair** (Country Rapporteur) said that the Committee's primary concern was the status of the Covenant and the extent to which the rights under the Covenant were justiciable in the State party. It would welcome further clarification of the relevant paragraphs in the State party's replies to the list of issues, including paragraph 2, which referred to social rights only, and paragraph 4, which lacked examples of case law on the application of the Covenant. The State party's decision not to ratify the Optional Protocol was a source of concern. The Committee was also concerned by the 20 per cent decrease in the budget of the Office of the Commissioner for Civil Rights Protection in 2016 and the large proportion of that budget that was allocated to wages. The State party had set restrictions on the criteria which could not be used as grounds for discrimination, whereas, according to article 2 (2) of the Covenant, the list of such criteria should be open-ended. The unequal treatment of the Roma community and their continued difficult situation remained a source of concern. It appeared that gender equality legislation was not being enforced, since the national targets for the representation of women in political and public life, despite being lower than the Committee would have expected, had not been met. Lastly, he wished to know why the State party seemed to have regressed recently in terms of democracy and the rule of law, at a time when it might be looked to as an example by countries that were trying to establish the roots of democracy.

7. **Mr. Schrijver** said that, despite recent progress, unemployment levels remained high. The Committee would welcome some examples of the positive impact of measures taken by the Government, in line with its duties under article 65 (5) of the Constitution, to improve the situation and especially to combat long-term unemployment. It was unclear whether incentives for employers to provide jobs for unemployed people applied during a fixed period of time only and, if that was the case, whether the employees in question were generally offered continuing employment once that period had elapsed. The Committee would welcome further information on the changes to the Labour Code with regard to the minimum wage, including under civil-law contracts, and their effect. It would be useful to know how long the gender wage gap had been at its current level of 6.4 per cent, which was much lower than the European average, and whether it was increasing or decreasing. More information on the wage gap experienced by women in executive positions would also be welcome.

8. With regard to the protection of trade union members and leaders, he wished to know what follow-up had been given to the Constitutional Court ruling of June 2015 on the right to organize of persons working under civil-law contracts. Had the draft amendment to the Trade Union Act mentioned in paragraph 59 of the replies to the list of issues (E/C.12/POL/Q/6/Add.1) been adopted and implemented? The delegation should explain whether the State party had been able to develop mechanisms to guarantee the sustainability of pension schemes. It should also describe how the lowest pensions compared to the cost of living and what support had been provided to the persons who received them.

The meeting was suspended at 3.50 p.m. and resumed at 4.05 p.m.

9. **Ms. Maciejewska** (Poland) said that the Government took its obligation to implement the Covenant very seriously: the provisions of ratified international treaties were directly applicable, unless their implementation required the enactment of a law. The Covenant had been analysed and it had been concluded that a large number of its provisions did not establish individual rights that could give rise to a judicial remedy. It was therefore the responsibility of courts to implement the provisions independently. The Government had no immediate intention of ratifying the Optional Protocol to the Covenant, but would review its position once it had a clearer picture of the financial impact of ratification.

10. The Office of the Ombudsman was a constitutional and administrative body with which other administrative bodies were required to cooperate. Despite its budget having been cut in 2006, the Office had sufficient funding to perform its duties. In 2012 and 2013,

it had secured additional funding for recruitment to enable it to fulfil its mandate, which had expanded as a result of the ratification by Poland of the Convention on the Rights of Persons with Disabilities.

11. **Ms. Kamedula-Tomaszewska** (Poland) said that the purpose of the Act of 3 December 2010 on Implementing Certain European Union Provisions on Equal Treatment, which contained an exhaustive list of prohibited grounds of discrimination, was to incorporate the provisions of European Union directives into the domestic legal order. Prior to its adoption, the Act had been approved by a number of European Union institutions.

12. **Mr. Deptula** (Poland) said that the Act was part of a broad framework of protection against discrimination, the cornerstone of which was article 32 of the Constitution, which prohibited unequal treatment. Protection was also afforded under the Civil Code.

13. **Ms. Gajewska** (Poland) said that concerted efforts by the Government to improve the living conditions of the Roma community dated back to 2001, when the focus had been on the Carpathian Roma in Małopolskie province. In general, the Roma groups in Poland had quite young populations, with around 32 per cent of their members under the age of 20, and over 90 per cent of them lived in urban areas. As many of the challenges faced by the Roma stemmed from having a low level of education, the Programme for the integration of the Roma community in Poland for the periods 2004-2013 and 2014-2020 prioritized education. The success of the Programme was reflected in a 2011 evaluation of its implementation, which had demonstrated that the Roma held schools in high esteem. As part of efforts to create a Roma intelligentsia, scholarships were awarded to talented students. In 2016, 272 Roma had reported having completed higher education, in contrast to only 13 in 2002. In 2011, additional grants had been introduced to reduce the secondary school dropout rate. Over 60 Roma organizations now participated in the Programme, and the mechanisms introduced had been designed to continue to function after the Programme itself ended. In Małopolskie province, where many Roma lived in rural areas, 3,000 housing units had been partially or completely renovated, 103 flats had been purchased for Roma families and water and sewage systems had been built or improved.

14. **Ms. Kamedula-Tomaszewska** (Poland) said that the first electoral gender quota system had been adopted in 2011 for parliamentary, local and European elections. The system established a minimum quota, subsequently enshrined in the Electoral Code, of 35 per cent for candidates of each sex on electoral lists. In the 2014 elections to the European Parliament, 33 per cent of the 51 Polish candidates who had been voted in had been women. The Government was aware of the key role of the electorate in increasing women's participation in politics. For that reason, in the build-up to recent elections, the Office of the Ombudsman had publicly emphasized the importance of equal participation and had called on the leaders of political parties to take steps to promote gender equality. It had also adopted education measures and organized conferences, discussions and training courses.

15. **Mr. Kaczor** (Poland) said that the majority of judges and district court presidents in Poland were women.

16. **Ms. Wasilewska** (Poland) said that careful use was made of the funds available for employment assistance and therefore selected employers who, despite being under no obligation to do so, agreed to retain the services of new recruits beyond the initial period of support. Tools for professional development included tripartite training contracts concluded by the public employment service, employers and training institutions. Steps were taken to ensure that the persons offered such contracts possessed the skills required by employers, thereby increasing the likelihood of achieving sustainable employment. In July 2016, long-term unemployment had accounted for 56.7 per cent of total unemployment, down from 57.5 per cent a year previously. Special programmes tailored to the needs of long-term unemployed persons had been evaluated in 2014 and found to be 80 per cent effective.

Apprenticeships enabled people without experience to enter the labour market and had a success rate of over 60 per cent. The success of unemployment assistance had increased steadily since 2009.

17. **Ms. Bolesta** (Poland) said that fixed-term contracts were regulated by the Labour Code while civil-law contracts were regulated by the Civil Code; therefore, the safeguards contained in the Labour Code did not apply to civil-law contracts. The Labour Code had been amended to limit the possibility of terminating fixed-term contracts, thereby making them the same as permanent contracts. Under article 10 of the Labour Code, all persons had the right to freely choose their work, and provisions of the Labour Code, for example on annual leave, could be included in civil-law contracts. Those who believed that they were offered a civil-law contract as a means of circumventing the Labour Code were free to bring their case to the labour inspectorate. Social insurance legislation had been amended in January 2016 to require persons under civil-law contracts to contribute to the pension scheme. Minimum wage legislation had also recently been amended to introduce a minimum hourly rate that would apply to persons under civil-law contracts as of 2017. Failure to pay the minimum hourly rate carried a fine of Zl 1,000 to Zl 30,000.

18. **Ms. Sarzalska** (Poland) said that the gender pay gap was 7.7 per cent, compared to 16 per cent in the European Union, and had been nearly halved between 2007 and 2014. Data were scarce, but it was known that the gap was wider for higher positions. Workers had a right to equal pay for equal work and the Labour Code provided for a remedy and reparation in cases where workers considered their wages to be unfairly lower than those of another person performing a comparable task. Data collection on the topic was hindered by the fact that information on wages could only be disclosed with the authorization of the worker concerned, except in the case of public officials.

19. The Government, together with the Ombudsman and the European Union, had been developing an equal pay system since 2012. In 2013, the Government had spearheaded an audit of the civil service in order to measure the wage gap. The Ministry of Labour and Social Policy was designing tools to help employers identify the extent to which they were discriminating between their staff. In addition, in 2015, the Ministry had rolled out a large-scale project to encourage the promotion of women to higher positions in companies with over 250 employees; the project had been extended to smaller companies in 2016.

20. **Ms. Bras Gomes**, referring to a statement from the delegation according to which a court had ruled that article 9 of the Covenant was not justiciable because it did not contain a specific standard, asked whether the State party took account of the Committee's general comments in its judgments and policies. Pointing out that the prohibited grounds of discrimination in the European directives mentioned by the delegation were very limited, she wished to know whether there were any plans to adopt a comprehensive anti-discrimination framework. In that connection, she drew the State party's attention to the Committee's general comment No. 20. Noting that most people would not deliberately choose a non-standard form of employment unless absolutely obliged to, she asked what the Government considered its role to be in protecting the rights of those who could not obtain a permanent contract.

21. **Mr. Abdel-Moneim** pointed out that the interpretation of article 11 of the Covenant by the Supreme Administrative Court, as cited in paragraph 4 (3) of the replies to the list of issues, was somewhat restricted, given that the Covenant spoke not only of social security but of social insurance as well. Referring to Supreme Court Decision II UKN 374/99 of 8 February 2000, as quoted in paragraph 4 (2) of the same document, he said that the Court's arguments were all legally sound, but they did not reflect the way that the Committee had intended article 2 to be interpreted. Accordingly, the Committee might consider revising its general comments Nos. 3 and 9 in the light of the interpretation by the Polish courts.

22. **Mr. Schrijver** asked what the current youth unemployment figures were, what policy measures had been adopted to reduce them and how effective those measures had been. He requested further information on the rate of involvement of workers in trade unions, and particularly whether workers in the private sector were free to organize.

23. **Ms. Shin**, referring to the 35 per cent quota for both sexes on electoral lists, asked whether there were additional rules to prevent female candidates from being placed at the bottom of the list, thereby hindering their chances of being elected. Noting the very low representation of women in the Senate, she wondered how well the quota worked in practice. She requested data on the number of women in managerial positions and the judiciary. Information would also be welcome in respect of any targets, incentives or special measures designed to increase women's representation in political and public life. Recalling that the Committee on the Elimination of Discrimination against Women had highlighted the detrimental effect of stereotypes that were still commonplace in the media and in school textbooks, she asked what measures the State party was taking to change perceptions about gender roles in society and in the family. Lastly, welcoming the State party's efforts to narrow the pay gap, she wondered whether a system might be instituted whereby employers simply stated the requirements and wages associated with a given job position, as that could be conducive to ensuring equal pay for work of equal value.

24. **Mr. Uprimny** said that he did not agree that economic, social and cultural rights were not justiciable because their content was not fully established in the Covenant. In fact, the State was the duty bearer for those rights, which had to be either developed by statute or applied by judges. It was worth noting that the Constitutional Court had established the right to conscientious objection, a concept that was more abstract and less developed than the right to education as set forth under articles 13 and 14 of the Covenant; consequently, it was unclear why the right to conscientious objection should be justiciable, but not Covenant rights.

25. **Mr. Pillay** said that he wished to learn what steps had been taken to amend the Criminal Code to criminalize domestic violence and marital rape, to monitor and enforce compliance with protection orders issued against perpetrators of domestic violence, to end the use of reconciliatory mediation for victims of domestic violence and prosecute and punish perpetrators of such acts, to provide shelters offering protection and assistance for women who were victims of violence, and to collect, analyse and publish data on the reporting, investigation and prosecution of cases of violence against women and girls. He would also like to know what measures the State party had taken to address the acute shortage of institutional care for small children and whether it intended to adopt a comprehensive, long-term policy for the benefit of families. Noting that Poland had legislated against corporal punishment in all settings, he said that he would welcome clarification from the delegation as to whether it was still used in schools, youth centres and alternative care facilities. The State party should also explain what steps it had taken to ensure that women and girls who were victims of trafficking were identified at an early stage and had access to medical care, legal aid, psychological counselling and rehabilitation programmes, regardless of their ability or willingness to testify against traffickers.

26. The Committee would be grateful for information on any long-term measures adopted to address homelessness among refugees, asylum seekers and children. How did the State party intend to deal with the country's serious and deteriorating housing problem, which led to high rates of overcrowding, vulnerability to poverty and large numbers of young people still living with their parents? Information would be welcome on the steps taken to ensure that Roma families living in informal settlements were not subject to de facto segregation or forced evictions, especially in the light of reports that they had been asked to move to other municipalities without suitable alternative accommodation. The State party should outline the measures adopted to address the increasing number of

children at risk of poverty, as well as poverty affecting Roma families, single-parent families and families with multiple children or members with disabilities. On the right to food, it would be useful to know what was being done to ensure that children in rural areas and children from poor families had adequate access to food and nutrition, including food banks.

27. The delegation should indicate what steps had been taken to improve access to health-care services, given reports of long waiting times, a lack of services for persons with disabilities, limited access to dental and geriatric services, underfunding and lack of supervision of mental and psychological care services, and uneven geographical access to health-care services. The Committee would also like to know why Roma living in extreme poverty and undocumented migrants did not benefit from free medical care. Echoing the concerns expressed by the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Committee would like information on: the prevalence of unsafe abortions and the obstacles encountered by women having legal abortions; the lack of systematic referral mechanisms when medical doctors invoked the conscientious objection clause; limited access to contraception; the requirement that minors obtain parental consent to visit a gynaecologist to receive treatment; and the lack of comprehensive, science-based sexual and reproductive health education and information.

28. **Mr. Kerdoun**, welcoming the State party's achievements in the area of education, asked how the Government proposed to address the exclusion from higher education of that part of the population that could not afford the fees. Information would also be appreciated regarding the Committee's concern that Roma students did not have proper access to schools, especially in rural areas, and had a very high school dropout rate at all levels of education. According to the Organization for Economic Cooperation and Development, the State party needed to accelerate the ongoing reforms to its higher education sector and adjust them to meet the needs of society and the economy. Continuing professional development for teachers also needed to be improved. The Committee wished to learn how the Government intended to address the problem of high repetition rates in secondary schools. The delegation should also give details of efforts to reduce the percentage of early school leavers, raise the proportion of university graduates and address the inequality in access to education based on ethnic or social origin. What was being done to improve the quality of higher education, including for extramural students? Clarification would also be welcome on how the State party guaranteed the right to take part in cultural life and cultural expression.

29. **Mr. De Schutter** asked how the State party intended to increase the percentage of babies exclusively breastfed at 6 months and improve the collection of data on breastfeeding. He asked whether the State party envisaged initiatives to regulate the marketing of junk food, snacks and sugary drinks to combat the rise in child obesity, for instance by raising the rate of value added tax on junk foods. In the light of the existing restrictions on access to abortion and further restrictions proposed in a bill currently before parliament, he would welcome the delegation's opinion as to the compatibility of those restrictions with the State party's obligations under the Covenant to guarantee the right to sexual and reproductive health.

The meeting rose at 6.05 p.m.

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Fifty-ninth session

Summary record of the 56th meeting

Held at the Palais des Nations, Geneva, on Thursday, 22 September 2016, at 10 a.m.

Chair: Mr. Sadi

Contents

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Sixth periodic report of Poland (continued)

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The meeting was called to order at 10.05 a.m.

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Sixth periodic report of Poland (continued) (E/C.12/POL/6; E/C.12/POL/Q/6 and Add.1; E/C.12/POL/CO/5)

1. *At the invitation of the Chair, the delegation of Poland took places at the Committee table.*

2. **Ms. Oklińska** (Poland) said that the amendments to the Trade Union Act had been drafted with a view to extending the right to join a trade union to all workers, regardless of the nature of their employment, particularly to those employed under civil-law contracts and self-employed workers, and providing for a protective mechanism for trade union members. It was true that the consultations on the new provisions had taken a long time, but it had been important to reach agreement with the social partners; the process was now close to completion. Following a ruling of the Constitutional Court, the provision of the Trade Union Act that stipulated that only employees could join trade unions was no longer in force. Consequently, persons who did not fall under the definition of an "employee" under the Labour Code could now join trade unions and bring cases before the courts to allow them to do so. According to statistics from 2014, some 1.6 million workers were trade union members, accounting for approximately 11 per cent of all workers. The highest proportion of union members was in the mining sector. Two thirds of trade unions represented the public sector, but now that non-employees could form trade unions, the number in the private sector was expected to increase.

3. **Mr. Zieleniecki** (Poland) said that there were two types of social protection: social insurance — with benefits financed by premiums based on the insured person's salary while they were working — and social provision — with benefits financed from the general budget. Social insurance was the dominant form, while social provision applied mainly to the uniformed professions and prosecutors and judges. There was also a special social insurance system for the agricultural sector, under which contributions covered less than 10 per cent of the cost of pension benefits, with the remainder financed from the State budget. The Government was taking measures to standardize the principles underpinning the three systems. In 2013, the criteria for pension eligibility for the uniformed services and armed forces had been changed in respect of age (minimum 55 years) and length of service (minimum 25 years), bringing them into line with those applicable in the social insurance system. The Council of Ministers had very recently decided to implement a reform concerning the amount of retirement pension and disability pension benefits in the common social insurance system and the social insurance system for agricultural workers.

4. In 2015, the minimum subsistence level for a single-person household had been 518 zlotys (Zl), while the minimum social security benefit had been Zl 1,080. At the end of 2015, the average pension benefit had been Zl 2,050 and the minimum Zl 882. In view of the problem of poverty among pensioners on the lowest levels of retirement and disability pension benefits, as of 1 March 2017, the minimum amounts would be significantly increased under both the common and the agricultural workers' social insurance systems, with the new minimum amount set at Zl 1,000.

5. **Ms. Sarzalska** (Poland) said that those at greatest risk of poverty in the State party were generally families with four children or more, and, according to figures from 2014, there were 1.5 million children at risk of relative poverty and 700,000 at risk of absolute poverty. Poverty rates had decreased among all groups in Poland, and child poverty levels

were similar to the European Union average. Families with children were entitled to support from the State under the general social assistance system and the family benefit system, in force since 2006. A new allowance paid on the birth of a child had been introduced the previous year, giving parents Zl 1,000 for the first child. An allowance of Zl 1,000 for the first year after a child's birth was also awarded to parents who were not entitled to maternity or paternity leave because they were not covered by health insurance. Special support was available to families with children with disabilities or dependent adults, particularly for persons who had had to give up work to care for a family member. The system of family benefits was based on a maximum income threshold, with support provided to families on the lowest incomes. The threshold had been increased by 20 per cent since 2012 and would rise again in October 2017. Under a new programme introduced in April 2016, every family received an allowance of Zl 500 for second and subsequent children, regardless of income; for the first child, there was a maximum income threshold of Zl 800 if the child did not have a disability and Zl 1,200 if it did. It was estimated that some 2.7 million families were receiving benefits under the new programme, which was forecast to reduce poverty levels among children up to the age of 17 from 22.3 per cent to 10.5 percent. In the past, persons whose revenue exceeded the maximum income threshold by even 1 zloty had lost their entitlement to family benefits entirely. Under the new Zloty for Zloty programme, if a family's revenue exceeded the income threshold, their benefits were simply reduced by the same amount by which the limit had been exceeded. As a result, an additional 160,000 families were now receiving family benefits. Work was under way on developing a comprehensive strategy for responsible development, which would encompass family support. Once the strategy had been adopted, a new programme for families with children would be developed.

6. Strict regulations had hindered the establishment of childcare facilities for children under the age of 3 until 2011, when new legislation had introduced provision for day-care assistants, who could take care of up to five children, and nannies. A new programme, worth Zl 151 million annually, was also being implemented to help municipalities fund childcare facilities. However, the proportion of children under the age of 3 in preschool care had only risen from 2.6 per cent in 2010 to 8.1 per cent in 2015, because of the high fees. A co-financing scheme had been introduced, allowing parents to pay reduced fees. According to a survey conducted among parents in 2015, 100 per cent of respondents in urban areas, compared to only 60 per cent in rural areas, had stated that they would like to enrol their children under the age of 3 in day care.

7. **Ms. Wasilewska** (Poland) said that the labour market had improved considerably in recent years, thanks to measures put in place by the Ministry of Labour and Social Policy. Unemployment had been decreasing significantly since 2014 and that trend had continued into the early months of 2016. Extra support had been made available for young unemployed persons, such as by imposing a requirement upon employment centres to find job openings for them within a briefer period of time. A plan had been launched to create 100,000 new jobs over three years, giving young people the possibility to work in full-time employment for a period of 24 months, during the first 12 of which their employer's social security contributions would be partly reimbursed. Training vouchers and vouchers to assist with moving to a new place of residence had been introduced to encourage job market mobility and skills acquisition among the young. As part of plans to facilitate the return to the job market for workers who had had children, the Government provided grants to employers for the creation of teleworking posts.

8. Other programmes, at both the national and the regional level, aimed to improve access to the job market for young persons with disabilities and to help young persons more generally to acquire professional skills and become self-employed. Measures in that regard were partly financed in the context of the European Social Fund. Mechanisms existed whereby employers were able to direct professional and vocational training, including that

of young people, in accordance with the needs of the labour market. Such mechanisms were regulated by the Act on Promoting Employment and Labour Market Institutions.

9. **Ms. Matysiak** (Poland) said that the approach to the issue of domestic violence in her country was an interdisciplinary one and task forces had been set up where representatives from various ministries and departments, the police, prosecutors and NGOs worked together to combat the phenomenon. The focus was not just on victims but also on perpetrators, as well as on prevention. Poland had launched its efforts in that regard 11 years previously with the 2005 Act on Counteracting Domestic Violence. The Act had been amended in 2010 with the introduction of the Blue Card procedure, which covered both direct intervention and the provision of assistance to victims of domestic violence. In fact, under the amendments, victims were able to obtain free medical certificates, were offered counselling, including psychological and legal counselling, and were entitled to free accommodation in shelters. At the same time, perpetrators were banned from any form of contact with victims and were required to leave the family home.

10. Poland currently had 777 centres providing aid and support to victims of domestic violence. In addition, there were a number of other structures, including 485 consultation points, 220 crisis intervention centres and 13 homes for pregnant women and mothers with young children. Two new specialized centres were due to open in the period 2018-2019. A national programme to combat domestic violence, launched in 2006, had been extended for a further six years in 2014. It contained provision for a national hotline to report cases of domestic and gender-based violence which, unlike previous hotlines, would be free of charge and would operate 24 hours a day. The programme included therapy for perpetrators, 9,000 of whom were treated each year, and preventive measures such as awareness-raising campaigns on the dangers of domestic violence. Reports on domestic violence in Poland were available on the website of the Ministry of Labour and Social Policy.

11. **Ms. Mende** (Poland) said that it was untrue that domestic violence was not criminalized in Poland. Although the Criminal Code did not refer specifically to domestic violence, it penalized all forms of violence, including any kind of injury, abuse or harassment perpetrated within the home. Law enforcement officials, from both the police and the judiciary, received specific training in that regard. Moreover, under the Code, police had the power to apprehend a person against whom there was a reasonable suspicion that he or she had acted violently against someone within the same household. Police and prosecutors who worked on cases involving domestic violence had to follow specific guidelines. Under those guidelines, prosecutors conducting criminal proceedings were required to have a requisite amount of experience, the Blue Card procedure had to be adequately documented and victims had to be informed of their rights under the Act on Counteracting Domestic Violence. As of 2015, police reports on any incident, however trivial, had to indicate whether domestic violence had been involved. That helped not only in compiling statistics but also in raising awareness among law enforcement officials.

12. The approach to domestic violence in national law thus enabled the authorities to implement a broad spectrum of remedies. In fact, it provided more support and protection to victims than if the offence were more narrowly defined, thanks also to the Blue Card procedure, which, inter alia, required police to ensure the safety of a victim of domestic violence by making regular visits to the home. The authorities in Poland tended not to opt for mediation in cases of domestic violence because one essential condition for effective mediation was equality between the parties and that was often lacking in cases of domestic abuse.

13. **Ms. Naszczyńska** (Poland) said that, contrary to what had been stated during the meeting and to the Committee's concluding observations from 2010 (E/C.12/POL/CO/5), marital rape was penalized in Polish law. The offence of rape, regardless of the victim's relationship to the perpetrator, had been on the statute books for many years. Legislators in

Poland did not consider marital rape to be a separate category of offence and any victim of rape could seek redress under article 197 of the Criminal Code. The requirement under which a victim of marital rape had to apply for proceedings to be launched had been abolished in 2013, and since then such cases had been prosecuted ex officio by the State. In other words, as soon as the offence was reported by the victim or by a third party, State law enforcement agencies and prosecutors were legally obliged to take action. The change had been made in the interests of victims who, through shame or fear, might choose not to pursue legal redress through the courts. Such cases were, of course, often very difficult and delicate because the justice system had to gather evidence and verify the status of the victim while at the same time protecting the rights of accused and accuser alike. If a case of marital rape came before the courts it was examined like any other criminal case, although there were mechanisms in place to protect the privacy of the victim during the proceedings. If a guilty verdict was reached, the judge, when passing sentence, had to take account of the bond between perpetuator and victim, and a marital relationship was considered to be an aggravating factor.

14. **Mr. Uprimny** asked what steps were being taken to increase the availability of opioid replacement therapies and clean syringe exchange programmes for heroin users. Noting that, in the area of substance abuse, harm reduction strategies were hindered by a policy of penalizing individuals for possessing small amounts of drugs, he asked whether the State party would consider amending that policy.

15. **Ms. Shin**, noting that the State party planned to introduce a free hotline to receive complaints of domestic violence, asked whether it would consider providing an interpretation service so that non-Polish speakers could use the hotline. Owing to the prevalence of patriarchal attitudes, marital rape was unlikely to be prosecuted unless a specific provision was made to criminalize it in the Criminal Code. For that reason, the State party should consider adopting such a provision.

16. **Mr. Abdel-Moneim**, noting that the proportion of gross domestic product allocated to the implementation of the Covenant appeared to have fallen between 2010 and 2014, asked whether the Government was fulfilling the requirement to progressively implement the Covenant or whether it considered that the rights enshrined in it were now sufficiently implemented and protected.

17. **The Chair** said that, in accordance with the jurisprudence of the Committee, domestic violence and marital rape must be explicitly criminalized by specific legal provisions.

18. **Mr. Zablocki** said that steps had been taken to reduce waiting lists for medical services. In particular, cases in which a patient had been included on more than one list had now been eliminated. Plans were being made to carry out a comprehensive reform of the health-care system in Poland. The current insurance-based system would be replaced by a budget-based system; a network of local, regional and provincial hospitals would be established; spending on health care would be increased to 6 per cent of gross domestic product by 2025; health-care teams comprising a doctor, a nurse, a school nurse and a midwife would be set up; motivational programmes focusing on preventive health would be carried out; and the various health bodies and institutions that currently existed would be combined into a single office of public health.

19. The national health-care programme for 2016-2020 had recently been implemented with the aim of increasing citizens' quality of life and reducing disparities in access to health care. Its operational objectives were: to improve diets and exercise regimes; to tackle substance abuse and behavioural addictions; to prevent mental health problems and improve the mental health of the general public; to reduce health risks caused by physical, chemical and biological agents at work, at home, outdoors and at school; to promote

healthy ageing; and to improve reproductive health. Foreigners who resided in Poland and were covered by health insurance had access to State-funded health care. Illegal immigrants or foreigners with no health insurance were also provided with medical care if they suffered a sudden illness or if their lives were at risk.

20. The Act on Family Planning, Human Fetus Protection and Conditions of Permissible Abortion enabled individuals to take decisions on whether to have children and obliged the State to help people make such decisions. Local government authorities were obliged to provide materials that would raise awareness of reproductive issues. According to the Polish Gynaecological Society, the contraceptive methods that were available included periodic abstinence, intrauterine devices, condoms and hormonal tablets. Legislation was being amended in order to protect the rights of doctors who had a conscientious objection to abortion and to provide patients with the services to which they were entitled. The Act provided for abortion to be carried out by a doctor only when the pregnancy posed a threat to the health or life of a pregnant woman, when prenatal tests indicated that the fetus was highly likely to suffer severe, irreversible damage or have a disease that was a threat to life, or when there was a justified suspicion that the pregnancy had been the outcome of an unlawful act. The number of legal abortions had risen steadily from 159 in 2002 to 1,040 in 2015.

21. Citizens were able to submit bills to parliament within the framework of a civic initiative, as had been the case with the civic bill related to the anti-abortion law, if they managed to collect at least 150,000 signatures of citizens entitled to vote. Any such bill would be subject to parliamentary evaluation.

22. Under the provisions of the Family and Guardianship Code, children under the age of 13 were not considered able to take decisions concerning contraception or preventive care during pregnancy. However, patients aged 16 or older had the right to approve the care that they received. Under national law, women and girls had the right to access health-care services in the areas of obstetrics and gynaecology. According to a tribunal decision of October 2011, the current law was in line with the Polish Constitution and the Convention on the Rights of the Child.

23. The Ministry of Health had issued a regulation addressing obesity among children by restricting the foods that could be sold in educational establishments. The first operational objective of the national health plan for 2016-2020 was to improve diet and exercise regimes and to reduce obesity and premature deaths from non-communicable diseases. Children's physical development was evaluated by a series of tests and doctors were expected to identify the reasons why children had become obese. Although no steps had yet been taken to increase value added tax on fast food, the proposal would be considered with a view to its being implemented.

24. Women who wished to breastfeed their children were supported by legislation that enabled them to take paid maternity leave and paid breaks after they had returned to work. Pregnant women were referred to specialist nurses who visited them at home and advised them on various matters related to childcare, including breastfeeding. However, questionnaires issued by the Ministry of Health showed that, although 70 per cent of babies were breastfed during the first month of life, more than half of new mothers stopped breastfeeding exclusively before the child was 6 months old. The Ministry of Health aimed to reverse that trend.

25. **Ms. Skórka** said that local authorities provided financial support for pupils from low-income families and those whose family situations were adversely affected by unemployment, disability, long-term illness or addiction to alcohol and drugs. All pupils, regardless of their ethnicity or background, were eligible to apply for scholarships. Pupils with disabilities and those living in remote areas were provided with free transport by local

authorities. As of 2006, pupils who attended small schools had received additional support and extra funds had been made available to such pupils in 2016. Additional funding would also be provided to preschool children in 2017. In addition, a new national programme would co-fund the purchasing of schoolbooks and educational materials for children with an intellectual or physical disability. Braille versions of schoolbooks had been made available to children with visual disabilities and, in 2015, schoolbooks adapted to the needs of deaf pupils had also been made available.

26. Pupils with special educational needs received specific care in accordance with the nature of their disability and the type of school that they attended. Secondary-school pupils with disabilities were also able to take examinations adapted to their needs. Following changes in the provision of psychopedagogical support, the educational needs of Roma children could be individually addressed. Juvenile delinquents held in penitentiary units were able to receive vocational training and could participate in a range of educational and voluntary programmes. Adults could receive education at the primary and secondary levels and could also benefit from vocational training and training in general skills. The vocational training system was complemented by a system of external examinations offered at various levels.

27. **Ms. Sarzalska** (Poland) said that, since December 2015, the Ministry of Agriculture and Rural Development had organized adult vocational courses and training for farmers in areas including accountancy and farm management. While article 70 of the Constitution stipulated that higher education should be free of charge, payment was required for foreign language courses, and evening and part-time studies. University administrations had the power to set payment rules and grant exemptions. The Government provided financial support to PhD students so as to ensure equality of opportunities for students with disabilities and those on low incomes. It also funded housing for students and their spouses and children to enable them to live close to their place of study, with those most in need being given priority in the allocation of accommodation and free meals. Students with a legally certified disability were entitled to a non-means-tested allowance. The Ministry of Education had the power to cancel the repayment of student loans if recipients were in financial difficulty.

28. New provisions in the amended Higher Education Act would allow better access to education for students over the age of 25, thus helping them to be better prepared to enter the labour market. A joint initiative by the Ministry of Education and the Ministry of Labour and Social Policy had allocated Zl 11 million to establish kindergartens in universities to enable parents to study, with 1,436 day-care places created in 2015. The authorities had also instituted improvements in the quality of higher education, including the use of innovative learning methods and the provision of funding for three-month practical traineeships to prepare students for the world of work. Since June 2015, such traineeships had been made available in more than 1,500 entities.

29. **Mr. Jaros** (Poland), noting that Poland had initiated the Convention on the Rights of the Child, said that the country applied some of the highest standards in the world in the area of children's rights. The use of corporal punishment against children was banned under article 40 of the Constitution and article 96 of the Family and Guardianship Code, while the Criminal Code provided for sanctions to be applied to the offence. The family courts were entitled to suspend or remove the parental powers of persons found to have inflicted corporal punishment on their child. The Ministry of Justice ran regular public awareness campaigns to tackle physical and mental violence towards children. The Government had created the Office of the Ombudsman for Children, which could make applications to the Supreme Administrative Court and the Constitutional Tribunal and had launched a national campaign to encourage people to treat children as individual human beings with inalienable rights; that had culminated in the adoption of a declaration on the rights of children. The

twelfth national conference on the provision of assistance for child victims of crime had been held in October 2015.

30. **Mr. Kończyk** (Poland) said that the National Action Plan to combat trafficking in human beings for the period 2016-2018 addressed issues including the early identification of victims, the prosecution of offences related to human trafficking, and the provision of operational and procedural manuals to assist law enforcement agencies working on the problem. Victims of human trafficking were entitled to compensation, and were exempt from prosecution for entering Poland illegally if they had done so as a consequence of being trafficked. The police operated a hotline and e-mail facility through which members of the public could report suspected cases of trafficking. In 2015, 61 calls and 130 e-mails had been received. The European Union had funded another e-mail system for the reporting of suspected cases of sex tourism, the Don't Look Away initiative. Internal regulations governed the prevention and prosecution of human trafficking cases.

31. Foreign victims of human trafficking were protected by special protocols, such as a three-month window during which they could decide whether or not they wished to cooperate with law enforcement agencies. Since 2009, the National Consulting and Intervention Centre for Victims of Human Trafficking had provided comprehensive support for Polish and foreign victims and witnesses, with services including the provision of legal, psychological and medical assistance. Regional teams had also been formed to tackle human trafficking. The police academies ran training sessions every two weeks on how to deal with suspected cases of human trafficking and how to assist victims. Between October 2015 and March 2016, prosecutors and judges throughout the country had also attended training courses on the issue.

32. **Mr. Zieleniecki** (Poland) said that the Government would take into account the opinions of the Committee members when shaping future policies. Responses would be provided in writing to those questions which had not been answered due to lack of time, including those on the issue of housing.

The meeting rose at 12.55 p.m.

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Fifty-ninth session

Summary record of the 57th meeting

Held at the Palais des Nations, Geneva, on Thursday, 22 September 2016, at 3 p.m.

Chair: Mr. Sadi

Contents

Consideration of reports (*continued*)

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Third periodic report of Tunisia

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The meeting was called to order at 3.05 p.m.

Consideration of reports (*continued*)

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Third periodic report of Tunisia (E/C.12/TUN/3; E/C.12/TUN/Q/3 and Add.1)

1. *At the invitation of the Chair, the delegation of Tunisia took places at the Committee table.*

2. **Mr. Ben Gharbia** (Tunisia), introducing his country's report, said that he was delighted to engage in an interactive dialogue with the Committee in the fiftieth anniversary year of the adoption of the Covenant. Since the consideration of its previous report in 1999, Tunisia had experienced a period of injustice, unemployment and widespread poverty that had culminated in the revolution of 2010 and 2011. Five years on, the economic and social situation remained difficult and financial resources were lacking. Nevertheless, the Government would spare no effort in guaranteeing the enjoyment of economic, social and cultural rights, which were enshrined in the Constitution of 2014, along with a range of other basic human rights. Tunisia had ratified the International Convention for the Protection of All Persons from Enforced Disappearance and the Convention on the Elimination of All Forms of Discrimination against Women.

3. The Government promoted gender equality, including through the implementation of Act No. 17 of 7 February 2000, which had repealed a provision of the Code of Obligations and Contracts requiring a contract signed by a woman to be validated by her husband. Acts of discrimination continued to be committed, however, which was why further measures needed to be taken in cooperation with civil society. The establishment of a constitutional court in the near future would represent an important step forward in that respect.

4. In 2015, the National Council for Social Dialogue had been set up and, in January 2016, a strategy had been launched to give fresh impetus to the economy and to encourage a more equal distribution of wealth. Rates of illiteracy, poverty and unemployment among women, though high, did not compare unfavourably with those in other countries in the region, but there were disparities between rural and urban areas.

5. The Government had put in place health programmes and was trying to streamline higher education by entering into partnership agreements with businesses and educational establishments. It had also created mechanisms, such as professional training courses, to foster the labour market integration of recent graduates.

6. In Tunisia, particular emphasis was placed on education. The Government had held national consultations on improvements to the education system and, in 2015, had undertaken initiatives to stimulate cultural activities.

7. Tunisia faced great challenges, fuelled by scarce resources, a lack of foreign direct investment and corruption in many sectors. With that in mind, a constitutional authority had been set up to combat corruption, and the Higher Committee on Human Rights and Fundamental Freedoms had been upgraded to serve as an independent national human rights institution.

8. While Tunisia did not claim to have met all its international obligations, there was a political willingness to restore democracy through the fulfilment of economic, social and cultural rights, as stipulated in the Constitution. The Government had a historic responsibility to make the Tunisian model successful in the wake of the Arab Spring and was working closely with public institutions and civil society to achieve that goal. It was

always ready to learn lessons and would therefore be happy to take on board any comments or recommendations that the Committee might make.

9. **Mr. De Schutter** (Country Rapporteur), expressing appreciation for the presence of a high-level delegation, said that Tunisia had changed completely since the consideration of its previous report in 1999 and that the current dialogue came at a time of transition, as the Government sought to implement the Constitution of 2014. Of the cross-cutting issues that would underpin the dialogue, special attention should be drawn to the status of women, poverty and inequality, and the availability of information and statistics.

10. Turning to more specific issues, he asked what could be done to promote the direct application of the Covenant by national courts, given that there were very few cases in which that had occurred, and whether the bill to establish a human rights commission, which was mentioned in paragraph 8 of the replies to the list of issues (E/C.12/TUN/Q/3/Add.1), had been adopted. If it had, the Committee would appreciate a copy of the text.

11. He wished to know what guarantees were in place to ensure that the Assembly of the Representatives of the People took into account the State party's international obligations in the course of negotiations with the European Union (EU) on the Deep and Comprehensive Free Trade Agreement, and that outside investors attracted under the new Investment Code respected national laws aimed at upholding economic, social and cultural rights.

12. With regard to corruption, he requested an update on the status of the bill on the protection of whistle-blowers referred to in paragraph 15 of the replies to the list of issues and invited the delegation to comment on the criticism from civil society that the bill on economic and financial reconciliation sent a message of impunity to those guilty of fraudulent conduct.

13. Noting that the level of external debt in Tunisia had increased significantly in recent years, he asked what safeguards were in place to ensure that any conditions attached to a loan did not unreasonably reduce the State party's ability to respect, protect and fulfil the Covenant rights, in line with the statement on public debt, austerity measures and the Covenant issued by the Committee in June 2016 (E/C.12/2016/1).

14. Concerning taxation, he wished to know whether there were plans to alleviate the disproportionate burden placed on formal-sector workers as a result of the size of the informal sector and the concessions granted to companies in order to encourage investment.

15. With reference to paragraph 28 of the replies to the list of issues, he asked what the Government's intentions were with regard to the bill on fighting all forms of discrimination and whether the bill took into account the Committee's general comment No. 20 (E/C.12/GC/20), pursuant to which States parties were required to ensure that a person's sexual orientation was not a barrier to realizing Covenant rights. In that connection, he remained deeply concerned that, under article 230 of the Criminal Code, sodomy was punishable by imprisonment for 3 years.

16. He would welcome information on the steps being taken to reduce regional inequalities. He asked whether the Government had developed any affirmative action programmes in favour of disadvantaged regions and, if so, what those programmes involved. The delegation should also describe what steps would be taken to improve progress indicators in order to gauge more accurately the situation of Tunisian Amazighs, who continued to encounter obstacles to the exercise of their rights.

17. He requested updated information on efforts to adopt a bill on asylum and asked whether, pending the establishment of a national asylum system, persons granted refugee status by the Office of the United Nations High Commissioner for Refugees (OHCHR) would be given access to education, employment and basic services.

18. As to gender equality, he noted that, while Tunisia had made great strides in terms of promoting equal access to education, its approach to guaranteeing equality in the labour market was somewhat dated and paternalistic, in that it favoured a traditional division of labour by sex. The delegation should explain to what extent such an approach was compatible with the Convention on the Elimination of All Forms of Discrimination against Women and with the State party's obligation to combat gender stereotypes.

19. Lastly, while he commended the State party's decision to withdraw its reservations to the Convention on the Elimination of All Forms of Discrimination against Women, the Code of Personal Status still contained discriminatory provisions, and the response to the Committee's request for details of the steps taken to end discrimination against women in matters of inheritance had not been reassuring.

20. **Mr. Schrijver** asked how the Government intended to combat unemployment and reduce employment disparities between regions and between male and female university graduates. He also asked whether there were plans to diversify employment prospects for women, who currently worked in only three sectors, and what the impact of the youth employment programmes had been. How many people had been able to exercise their right to work as a result of employment programmes? What level of labour and social security protection did workers in the informal sector enjoy? Given that some sectors were exempt from the minimum wage and that the informal sector was beyond the scope of supervisory bodies, he wished to know how the Government viewed its role in enforcing the minimum wage and ensuring compliance with social regulations. He enquired about the differences, in particular with regard to the level of labour protection, that the change from economic free zones to customs-exempt business parks would entail. Welcoming the growing range of trade unions, he asked how many workers were members of a trade union and whether restrictions on the right to strike might be reviewed in consultation with social partners. He invited the delegation to comment on how the State party reconciled the fact that a large swathe of the active population had limited social security coverage with article 38 of the Constitution, whereby everyone had a right to social security. Lastly, he asked what the State party's experience had been with implementing the recommendation of the International Labour Organization on social protection floors.

The meeting was suspended at 3.55 p.m. and resumed at 4.15 p.m.

21. **Mr. Ben Gharbia** (Tunisia) said that the Personal Status Code of 1956 had been the first of its kind in the Arab world and had ushered in improvements to women's rights that many countries had yet to adopt. All citizens were equal under the new Constitution, and the Government's role was to uphold the Constitution. A constitutional court would soon be established to review all laws, including those on inheritance rights; however, Tunisia being a democracy, the Government could not simply wave a magic wand: the legislative process had to be respected. The Investment Code was designed to increase wealth as a means of safeguarding fundamental rights. It fully took into account the country's international commitments, including those with regard to trade union rights and other economic and social rights, and did not provide for any preferential treatment; the only incitement was in the form of reduced administrative requirements. The bill on economic and financial reconciliation did not modify the prerogatives of the Truth and Dignity Commission and would not lead to impunity in corruption cases, as demonstrated by the fact that thousands of public servants were on trial for giving preferential treatment.

22. The Government could not protect the rights of workers of whom it was unaware; therefore, its goal was to shrink the informal sector as much as possible, inter alia through amendment of taxation laws and reform of the civil service. As part of its negotiations on a free-trade agreement with the EU, the Government of Tunisia had requested the inclusion of civil society in the talks to ensure that human rights were taken into account in the agreement. In the aftermath of the Arab Spring, lawmakers had decided to introduce in the

Constitution a provision for the establishment of five independent constitutional bodies or commissions, including one on human rights. A relevant bill had been submitted to the Assembly of the Representatives of the People, and each body's charter would cover international treaties. The Government cooperated closely with trade unions in ensuring respect for economic and social rights, including the right to strike. Strikes were problematic only when they were unauthorized. In fact, the Government had been accused of being too lenient on the issue of sit-ins.

23. The reason why the approach taken to increasing women's access to work appeared to be patriarchal was that, under the Constitution, families were paramount. The measures introduced, such as paid maternity leave, might seem to discourage women from working but, in reality, some women's organizations argued that they did not go far enough. Although the rights of minorities were recognized under the Constitution, the authorities needed to do further work on identifying the communities concerned. Affirmative action was taken in respect of certain disadvantaged regions, which received a greater share of investment. He stressed that Tunisia had made tremendous efforts to welcome over one million Libyan refugees, with almost no help from the international community.

24. Tunisia was striving to build a strong democracy and put human beings first, but it had a perennial funding problem and a long history to overcome. He requested the Committee's support and understanding.

25. **Mr. El Dine Haj** (Tunisia) said that the legislative system was being reviewed in order to bring it into line with article 20 of the Constitution, which ranked international treaties above domestic laws. The application of the Covenant by the courts depended on the type of court; the administrative courts, for example, had a history of applying international treaties directly, without citing domestic laws.

26. **Ms. Sebai** (Tunisia) said that international treaties could be applied directly in non-criminal matters. However, before the provisions of article 20 of the Constitution could become practice in all judicial courts, lawyers and judges needed to be trained in the Covenant and other international conventions.

27. **Mr. El Dine Haj** (Tunisia), responding to questions on the bill relating to the human rights commission, said that the Constitution contained an article providing for the establishment of a human rights commission and defining its structure and functions. The Government had adopted a participatory process in the drafting of legislation, with inputs from civil society, expert contributors and human rights bodies, and had also organized round tables and discussions. The bill had been submitted to the Prime Minister's Office, the Cabinet and to the Assembly of the Representatives of the People, where it was pending adoption. The drafting process had also taken into account the provisions of the Paris Principles and international treaties referring to guarantees of the structural, functional, administrative and financial independence of the commission.

28. **Ms. Mbarek** (Tunisia) said that the Constitution stated that natural resources were the property of the people and that the Government was responsible for overseeing their exploitation. Those considerations were relevant to the free trade agreement currently under negotiation between Tunisia and the EU, which would take economic, social and cultural rights into account. The Association Agreement signed between the EU and Tunisia in 1995 was still in force and had been useful in safeguarding those rights. The EU-Tunisia Action Plan (2013-2017) sought to promote a free trade agreement through an administrative committee under the Ministry of Finance and the Ministry of Agriculture, and with input from civil society. Various committees, comprising representatives of ministries, civil society and trade unions and members of parliament, were working to oversee relations between the EU and Tunisia. It was envisaged that the negotiations would be conducted with the full cooperation of governmental and non-governmental bodies, in a

participatory and transparent manner that was mindful of the right of development of Tunisia and of the Tunisian people.

29. **Ms. Sebai** (Tunisia), speaking on the fight against corruption, said that Tunisia had a law on the declaration of personal resources and the organization of transactions in general. The country had made international commitments in that area, including by ratifying the United Nations Convention against Corruption in 2008. Decree No. 120 of 14 November 2011 sought to bring Tunisia into line with the Convention, taking into account sovereignty, the need for accountability and transparency, and the establishment of a national strategy against corruption, including sanctions for the illegitimate acquisition of funds, notably through asset freezes. A further decree, due to enter force in March 2017, dealt with public office, governance and the fight against corruption, and aimed to strengthen the regulatory system while developing reporting and complaints mechanisms. Those legal texts also established ground rules for transactions by persons holding public office and stipulated that those responsible for dishonest acts could be excluded from their positions, with a view to ensuring transparency in the areas of procurement and tendering. A series of ethical principles, such as honesty, transparency, neutrality and accountability, had been developed and put in place in 2014, with a view to protecting public funds. A dedicated ministry had also been established to manage all corruption-related cases, pursuant to a 2016 decree, while a financial court set up in 2012 had jurisdiction to examine tax fraud and other acts of corruption. A witness protection bill had been approved by the Council of Ministers and submitted to the Assembly of the Representatives of the People for adoption. Despite those and other initiatives, such as efforts to examine the possibility of repatriating funds from abroad by extending the powers of the competent authority, work still needed to be done to strengthen the institutional governance framework. The Government was also engaged in ongoing awareness-raising activities in relation to public ethics, designed to prevent corruption and ensure full application of the code of conduct for public officials.

30. In terms of the legislative and policy framework for the fight against tax evasion, a reform of the tax system had been launched in 2013, on the basis of assessments and proposals put forward by a commission that had been set up in 2012 and which had carried out local, regional and national consultations. The new, simplified system would include transparency measures and measures against tax evasion, with a requirement for civil servants to declare wealth and assets. Proposals had also been put forward to establish a mechanism to bring those charged with tax evasion to trial, while mechanisms had been developed that would allow the Government to call upon institutions to hand over data on the transfer of funds, as well as obliging foreign institutions to appoint an accountant supervisor. Bank transaction and financial laws had also been passed in 2016, to enable the exchange of information with foreign companies while allowing Tunisia to comply with its international obligations.

31. **The Chair**, noting that there would be an opportunity to circulate additional written material at the end of the meeting, said that the delegation should use the remaining time to answer the questions raised on other aspects of the Covenant.

32. **Mr. Khalfa** (Tunisia) said that Tunisia had successfully met the first Millennium Development Goal in respect of the target of halving poverty. In the wake of the Tunisian revolution, the Government had ushered in reforms to ensure the independence of poverty reduction programmes and to bolster transparency through the participation of civil society. The number of families benefiting from the permanent grant programme had increased from 200,000 to 235,000, while the grant itself had been raised from 70 to 180 dinars. With the support of the World Bank, the Ministry of Social Affairs had launched a social security programme that aimed to standardize support for poor families. The reform of the social security system would allow the Government to target those most in need and limit disparities between regions.

33. The persistence of the informal sector was the result of the transition process and the slow growth of the economy, in addition to the low education levels of people working in the sector and a spike in unemployment. The social contract signed between the Government and trade unions included recommendations to gradually move towards a regularized economy. The Government was therefore conducting awareness-raising campaigns among informal workers, to promote their movement into the formal sector, and was providing them with incentives. Tax policies would also be reviewed for transparency and fairness, with a view to benefiting informal workers.

34. With regard to social security, there were several systems devoted to workers in different economic sectors. The Government had signed a framework agreement with the national labour federation and the fisheries and agriculture trade union in September 2015, which guaranteed the right to representation, to trade union membership and to safety at work. It was envisaged that other sectoral agreements would follow.

35. Minimum wages were in force for both the agricultural and non-agricultural sectors. A decree had been implemented that set the minimum wage in consultation with the most high-profile trade unions, taking into account inflation and GDP trends, in addition to revenues. The minimum wage in the agriculture sector had risen by 15 per cent between 2005 and 2015, while in the non-agricultural sector it had increased by 38 per cent over the same period. The informal sector was not covered by the labour code and was therefore not subject to labour inspections designed to enforce the legal minimum wage.

36. **Ms. Sebai** (Tunisia) said that a bill covering asylum rights was under discussion by the Government, following consultations with civil society and various relevant ministries. Pending the enactment of that bill, OHCHR, which had established a country office in Tunisia in 2011, was looking into asylum requests. Regarding the right to strike, article 49 of the Constitution outlined permissible restrictions of rights under conditions including the preservation of public order, national security, public health and public morals, and subject to requirements relating to necessity and proportionality. The Government would undertake efforts to standardize those restrictions, including in relation to the right to strike.

37. **Ms. Mbarek** (Tunisia) said that the regional development index adopted in 2012 showed the size of economic and social disparities between coastal and interior regions, as well as between different municipalities in the same region. It was crucial to speed up the implementation of public projects and to overcome procedural obstacles and land ownership issues, particularly in the interior. Investment totalling 3 million dinars had been channelled towards strengthening the infrastructure in rural regions, while other programmes had targeted the country's least developed regions, especially in the interior. Those funds, allocated in keeping with the regional development index, focused on infrastructure projects such as improving drinking-water supply and housing, and also provided a source of revenue for beneficiaries in the agricultural and fisheries sectors. As a whole, the integrated development programmes covered 90 municipalities and sought to inject vitality into communities, improve the living conditions of individuals and preserve the environment. Urban development programmes had also been carried out, with national oversight of all programmes on the basis of lists provided by regional authorities. Under the social development plan 2012-2018, over 70% of investment was devoted to the interior of the country.

38. **Ms. Ben Attitallah** (Tunisia) said that she wished to pay tribute to Tunisian civil society, which had undertaken colossal efforts in the sphere of economic, social and cultural rights.

39. The Government was aware of the sensitivity of the issue of non-discrimination, in all its dimensions. Significant work was being done in that sphere; however, the Government still needed to complete its stock-taking exercise, in collaboration with the

OHCHR country office. A national commission had been established and would be approved by civil society representatives, who would adopt a participatory approach. Regarding non-discrimination on the basis of ethnicity, a working group on ethnic minorities would be established, in parallel with consultations with civil society, while other associations would look at constitutional reforms and discriminatory practices. The Government of Tunisia appealed to the Committee for its assistance in addressing the issue of non-discrimination.

40. **Mr. Ben Gharbia** (Tunisia) said that any unanswered questions would be addressed in writing or at the subsequent meeting.

41. **Mr. De Schutter** said that further information would be appreciated on the steps that were being taken to ensure that employers made reasonable adjustments to workplaces for persons with disabilities, in line with the Convention on the Rights of Persons with Disabilities. The Committee would also welcome clarification of the mandate of the labour inspectorate with regard to the informal sector. It was particularly important to enforce the Labour Code in that sector, since it accounted for more than one third of the country's workforce.

42. **Mr. Schrijver** said that he would appreciate an answer to his earlier question about how many workers were members of a trade union.

43. **Mr. Atangana** said that the Committee was concerned by the high rate of school dropout among children aged between 7 and 12 years. Children who dropped out of school faced a lack of structure and were more vulnerable to criminal networks. He wished to know what measures were being taken by the State party to ensure that children remained in education. It would be useful if the delegation could estimate how soon the bill on the elimination of violence against women and girls would be adopted. The Committee would welcome more detailed statistics on sexual crimes against women and rape cases, to supplement the information provided in the annex to the State party's replies to the list of issues.

44. Noting that Tunisia did not appear to have a national action plan to combat poverty, he wished to know what measures would be taken by the State party to reduce the poverty rate and how soon the Government expected to be able to implement the social housing programme that had been delayed owing to administrative issues. Noting the major water shortages in Tunisia, particularly in certain regions, and the inadequacy of the existing management system, the Committee would welcome more information on what the State party was doing to guarantee water security and to ensure that all areas of the country had access to a reliable water supply. The State party's plan to introduce a protection and subsidy regime for homeless persons did not sufficiently address the problem of homelessness.

45. In terms of access to health care, there were clear disparities between regions, and corruption remained a source of concern. In some cases, patients were turned away from public establishments and obliged to seek private treatment. Persons with limited financial resources could find it difficult to obtain treatment. The figures provided in the annex to the State party's replies to the list of issues showed that the number of doctors per 100,000 inhabitants had fallen between 2009 and 2011. The Committee would like to know whether that number had risen since 2011 and what the State party was doing to improve the situation.

46. **Mr. Uprimny** said that, despite the Government's considerable investments in education over the past decade, significant improvements were still required if education was to serve as an instrument for development. Tunisia had performed rather badly in the most recent Programme for International Student Assessment survey. The illiteracy rate remained high, particularly among women, as did the rate of school dropout at both the

primary and secondary levels. The Committee would like to know more about the State party's concrete strategies to raise the quality of education and combat school dropout in order to reduce the illiteracy rate. Pre-school education was largely private, which meant that access to it remained limited. More information would be welcome on the steps being taken and the strategies being considered to ensure universal access to pre-school education. The questionable quality of some higher education establishments in Tunisia was also a source of concern. There was often a disconnect between the education provided and the skills required for the world of work, which made it harder for degree-holders to find employment. The Committee would welcome more information on how the State party intended to combat that problem and to make vocational training more attractive to young people.

47. Noting the evidence of regional disparities, for example with regard to school dropout, and the strong positive correlation between educational success and income level, he wished to know what steps were being taken to provide high-quality education for all and to ensure that the development of private education did not lead to social segregation. Article 39 of the Constitution, which stated that education should work to consolidate the Arab-Muslim identity, could pose a problem for communities in Tunisia with a different identity, such as the Amazigh community. He wished to know what measures were being undertaken to protect the identity of the Amazigh community and to promote the Amazigh language. The very low budget for the protection of Tunisian cultural and archaeological heritage was a source of concern. The Committee would appreciate more information on the measures envisaged to strengthen the protection of that heritage, especially in the areas inhabited by the Amazigh community. Lastly, more information would be welcome on the availability of Internet access to the general population and more specifically, to disadvantaged communities.

48. **The Chair** said that the Committee would like to know what interpretation of the Koran had been used as the basis for the abolition of polygamy. It would also welcome clarification on whether a more flexible approach had developed since the initial decision to abolish polygamy completely.

49. **Mr. De Schutter** said that the Committee would welcome more information on the exact content of the bill on the elimination of violence against women and girls. It wished to know, more specifically, whether the bill provided for an amendment to articles 218 and 319 of the Penal Code, which halted all investigations if the victim decided to withdraw her complaint; whether it provided for measures to keep perpetrators away from victims' homes; and whether it provided for the criminalization of marital rape and the repeal of article 227 bis of the Penal Code, under which a perpetrator of sexual violence could avoid prosecution by marrying his victim. The Human Rights Council's Working Group on the issue of discrimination against women in law and in practice had stated that the practice of customary or *orfi* marriages remained a source of concern.

50. With regard to poverty reduction, it was unclear how homeless people, without a fixed address, could be reached by the National Programme of Assistance to Needy Families. He wished to know whether the State party envisaged setting up an independent mechanism to monitor the impact of its social development programmes, and whether those programmes operated on a charitable basis or granted their beneficiaries certain rights that could be asserted before independent bodies. With regard to the proposed reform of food price subsidies, the Committee would welcome clarification on how the State party intended to address the challenges associated with targeting. In light of general comment No. 22 (2016) on the right to sexual and reproductive health, more information would be welcome on the current level of access to abortion services. He wished to know whether a complaints procedure was in place for women who were refused access to such services.

The meeting rose at 6 p.m.

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Fifty-ninth session

Summary record of the 58th meeting

Held at the Palais des Nations, Geneva, on Friday, 23 September 2016, at 10 a.m.

Chair: Mr. Zerbini Ribeiro Leão (Vice-Chair)

Contents

Consideration of reports (*continued*)

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Third periodic report of Tunisia (continued)

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The meeting was called to order at 10.10 a.m.

Consideration of reports (*continued*)

(a) Consideration of reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Third periodic report of Tunisia (continued) (E/C.12/TUN/3; E/C.12/TUN/Q/3 and Add.1)

1. *At the invitation of the Chair, the delegation of Tunisia took places at the Committee table.*

2. **Mr. Khalfa** (Tunisia) said that his country had been among the first 20 States to ratify the Convention on the Rights of Persons with Disabilities and had submitted its initial report under the Convention in April 2011. A national law on the rights of persons with disabilities, in force since 1981, had been amended in 2005 and 2016. Under that law, caring for such persons was the responsibility of the nation as a whole, to be carried out through cooperation between the State, civil society organizations and persons with disabilities themselves. The Constitution also provided for persons with disabilities to be protected from any form of discrimination.

3. A number of steps had been taken to favour the economic integration of that category of the population, including a legislative amendment whereby the proportion of persons with disabilities working in public sector institutions had been increased from 1 to 2 per cent. In cooperation with the European Union (EU), work had begun in 2007 to remove barriers in the physical environment and facilitate access to public structures, including public transport, for persons with disabilities. Under a law passed in 2016, Tunisia had ratified the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled.

4. **Ms. Sebai** (Tunisia) said that the bill to combat violence against women, which had been approved by the Council of Ministers in July 2016, had four principal aspects. They were: prevention, with ministries being required to submit plans on how they intended to prevent violence against women; punishment, with amendments to certain articles of the Criminal Code; protection, via the introduction of measures whereby violent husbands could be separated from their wives by court order; and support, with the creation of a number of new institutions including special police units to tackle cases of violence against women.

5. **Ms. Bouzouech** (Tunisia) said that a certain number of social housing units were being constructed each year. In 2016, it was planned to build 4,500 units. Social housing, which was intended for persons who earned less than three times the minimum wage and who did not have a home of their own, was free for certain categories such as veterans of the revolution or of the struggle against terrorism. Other tenants were expected to pay, but rents and conditions were highly favourable. The Government had set up a commission to address any financial or administrative difficulties that might arise in that regard.

6. The supply of potable water was an important part of national development plans. By the end of 2015, 100 per cent of the population in urban areas and 92 per cent in rural areas were supplied with drinking water. Although there was still some variance between different areas of the country, due also to climatic conditions and geographical factors, those figures should be compared with an average of just 40 per cent in rural areas in 1999. Contingency plans had been set up in places where water was scarce, and it was hoped to increase the proportion to 97 per cent by 2020.

7. **Mr. El Dine Haj** (Tunisia) said that his country had attached great importance to education ever since independence. Schooling was free and obligatory up to the age of 16 years. The issue of school dropout, which affected Tunisia as it did many other nations of the world, was taken very seriously and the authorities had adopted various strategies and policies to combat it, including a specific national plan of the Ministry of Education. A technical committee had been formed, which brought together representatives from government and civil society and which followed up on recommendations made by national and regional meetings on the issue of school dropout. At the same time, a system had been created to monitor emerging trends that could lead to pupils giving up on their schooling, and the Ministry sought to activate the role of civil society and to intervene promptly and effectively to resolve family issues that might also have a bearing on children abandoning their education.

8. The Ministry of Education worked to ensure that educational institutions remained open to their social and cultural milieu and, with the Ministry of Social Affairs, to reach out to pupils from poor families. Awareness-raising programmes were being conducted to sensitize the public to the dangers of early school dropout. Thanks to a national campaign under the title "Schools Recover their Children", it had been possible to reintegrate 15,000 pupils who had previously abandoned the education system.

9. A number of measures had been taken to promote the quality of education, including the introduction of university-level teacher-training courses throughout the country, to which 3,000 high school graduates had been admitted, and in-service training for existing teachers and others involved in the educational process. Quality education was one of the main pillars of the educational reform strategy of the Ministry of Education for the period 2016-2020.

10. The right to education was universally guaranteed under the Constitution. Private education did, of course, have an economic dimension but there was nothing to indicate that it was a discriminatory factor. In fact, success was by no means confined to those from wealthier social classes, and the vast majority of students admitted to top universities came from the public sector. Nonetheless, the Ministry had commissioned studies to ensure that it did not become a problem in the future.

11. According to law, anyone holding a baccalaureate or a recognized equivalent qualification had the right to accede to free higher education. As a way of enabling people to exercise their right to higher education without discrimination, a non-centralization policy had been adopted and Tunisia currently had 13 universities distributed throughout the country. Women made up 64 per cent of university students. They were offered university accommodation for a period of three years, which was the time it normally took to obtain a bachelor's degree, and longer if they went on to study for a master's degree or a doctorate. Grants and bursaries were available for students from families of limited economic resources.

12. Under the Constitution and the law, the State was required to ensure the quality of higher education and, despite increasing numbers of students, every effort was made to fulfil that obligation by means of an integrated quality control system. An independent public accreditation institution had been set up for evaluating and guaranteeing the quality of teaching, while teaching staff and inspectors underwent special formation and "train the trainer" courses were run in cooperation with such institutions as the Institut français and the British Council. Other initiatives to improve the quality of university teaching and to build capacities in response to national, regional and global needs were being financed with support from the International Bank for Reconstruction and Development (IBRD).

13. IBRD was also funding a plan to boost the employability of university graduates. At the same time, a national committee for the reform of higher education was examining early

education, from preschool to secondary school, with a view to improving the standard of university entrants and hence the quality of university education and the employability of graduates. Moves were afoot to strengthen the relationship between universities and the surrounding economic environment. Legislation had been enacted to promote partnership between the public and private sector, and one of the goals of the educational reform strategy of the Ministry of Education for the period 2016-2020 was to make universities more open to the social and economic context and to adapt courses and qualification to the needs of the job market.

14. Students enrolled in private universities in Tunisia, whose numbers did not exceed 30,000, represented less than 10 per cent of all university students in the country. The private system of higher education was required by law to offer the same quality and standard of education as the public system. Currently, the two systems were regulated by separate laws but, as part of the ongoing programme of educational reform, they were due to be fused into a single piece of legislation.

15. **Ms. Sebai** (Tunisia) said that, in the area of preschool education, the Government had drawn up a bill on kindergartens and nurseries; reopened State-run nurseries, particularly those operated by municipalities; and set up a team that was working on creating an action plan to tackle regional disparities.

16. **Mr. Khalfa** (Tunisia) said that a national programme gave direct financial assistance to 235,000 low-income families and provided them with free access to health centres and schooling. Other programmes gave 80,000 families access to medical care at reduced cost, funded micro-projects and provided support to various regions. State funds to support marginalized families had been increased threefold since 2014. An evaluation carried out in 2012 had led to the establishment of an information technology system to identify low-income families and determine the assistance that they needed. The system, which allowed information to be exchanged between ministries, had enabled the situations of 800,000 low-income families to be reviewed, so that the available funds could be spent more effectively. The Ministry of Social Affairs sought to support citizens, particularly those with special needs, by setting up mobile, multidisciplinary units to provide specialized care and services to the homeless and other vulnerable sectors of the population.

17. The approach taken by the Tunisian Government was based on human rights rather than charity and imposed obligations on the social institutions that worked to tackle poverty. To ensure that such obligations were being met, a committee monitored the help given to needy families and surprise inspections of social institutions were carried out.

18. In 2013, an agreement had been signed between the Ministry of Social Affairs and the Arab Institute for Human Rights that focused on human rights, including economic, social and cultural rights. The purpose of the agreement was to build capacity for planning projects with a human rights perspective.

19. **Ms. Bouzouech** (Tunisia) said that the legal framework in place, and notably the decree on the internal operating procedures of hospitals and specialized centres under the Ministry of Public Health, stipulated that health care had to be provided in a non-discriminatory manner. Other measures had been taken to reduce inequality and discrimination against groups and individuals. For example, public policies had been formulated to reduce disparities between regions in the provision of specialized medicine. Breast cancer screening was available to residents in remote areas, and persons with sensory impairments had access to health-care facilities. Accurate health information was disseminated to all citizens. Anonymous HIV/AIDS testing was available in health centres, and curative and preventive health care was provided in schools and universities for all students without discrimination. Measures had also been taken to issue more entitlement cards for no-fee health care. A programme had been launched to guarantee the availability

of health care in 13 priority governorates. The medicines budget for chronic illnesses in front-line facilities had been increased. Building of new hospitals and recruitment of new staff in priority regions had been undertaken. Certain local hospitals had been reclassified as regional hospitals, so that they could provide specialized health services. However, in spite of all the measures outlined, the distribution of health services was still characterized by a degree of inequality that needed to be assessed and rectified.

20. Steps had been taken to tackle corruption in the health-care system. The Ministry had adopted an anti-corruption strategy that complied with international standards. Tunisia had joined the Good Governance for Medicines programme of the World Health Organization (WHO). Health officials had been trained, a national programme had been launched, and an independent team validated by WHO had evaluated the transparency of the national pharmaceutical system and its vulnerability to corruption. The Ministry of Public Health had set up a steering committee and a working group to implement a dynamic, long-term strategy for good governance. Furthermore, it was now compulsory to disclose any potential conflicts of interest or relations between the pharmaceutical industry, stakeholders, health-care professionals and associations of patients.

21. **Ms. Mbarek** (Tunisia) said that the Investment Code, which had been approved by parliament, was part of a structural reform package that aimed to boost economic recovery by creating an attractive environment for businesses in Tunisia. The new Code, drawn up following an in-depth study of the current investment situation, was based on a participatory methodology and took account of the opinions of investors and comparative studies in various countries. A follow-up committee composed of representatives of stakeholders and an advisory committee consisting of representatives of professional associations and civil society had been set up. The aim of the Code was to encourage investment and develop institutions in line with the national development goals for 2015 and 2020. It included a number of safeguards for investors, which inter alia guaranteed equality of treatment for Tunisian and international investors, protected investors against non-trade-related risks and stipulated the need to respect intellectual and industrial property. However, investors were also obliged to respect Tunisian regulations, particularly those concerning labour, social security, competition, consumer protection and the environment. In addition, they were required to provide all the information needed to implement the Code and to ensure that all information related to their investments was accurate.

22. **Mr. Khalfa** (Tunisia) said that the right to join a trade union had been enshrined in the Constitution by the country's ratification of a number of key conventions of the International Labour Organization (ILO), including the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). In order to create a trade union, it was not necessary to seek the permission of the authorities; however, they had to be informed of the intention to set up the union and presented with a list of its senior officials. A number of trade unions or associations, for both workers and employers, had emerged in Tunisia since the revolution. In line with ILO recommendations, efforts were being made to encourage unregulated businesses and workers to join the formal economy. Labour inspectors were keen to implement labour regulations, as unregulated work was not permissible under the Labour Code.

23. **Ms. Sebai** (Tunisia) said that customary marriage had been criminalized because it had led to polygamy. In fact, any marriage that breached the regulations had been prohibited since 1957. Under the Criminal Code, abortion could be carried out by a doctor, in a licensed health centre or hospital, during the first three months of pregnancy. Abortion could also be carried out in other circumstances if the life, health or psychological well-being of the mother was at risk. In such cases, doctors were not able to refuse to carry out an abortion and could face disciplinary proceedings if they did so.

24. Gender equality was enshrined in the Constitution, and a constitutional court had been set up to ensure that men and women were treated equally. In order to safeguard gender equality, a council for equality of opportunities between men and women had been created under a decree which aimed to incorporate a gender-based approach in all planning, budget preparation and evaluation. For the first time in the history of Tunisia, a woman had stood as a candidate in the presidential elections. Other legislation stipulated the need to respect equality considerations when appointing members of the Constitutional Court and selecting candidates for legislative elections. Legislation adopted in 2016 stipulated that a ballot would be cancelled if the number of male and female candidates did not comply with regulations on equality. As a result, the representation of women in parliament had increased sixfold between 1999 and 2014. Tunisian legislation also stipulated that the principle of gender equality should be respected in elections to local and municipal councils. Despite all the measures outlined, efforts still needed to be made to address shortcomings in gender equality and, to that end, a national committee had been set up to identify and amend discriminatory laws.

25. **Ms. Mbarek** (Tunisia) said that Law No. 35 of 1994 had established the framework for the protection of historical sites, while Decree No. 1909 of July 1993 had provided for the establishment of a national public institution to oversee heritage and archaeological sites. Pursuant to Decree No. 1443 of August 1992, a national map of historical and archaeological sites had been created. The Government had set up the National Heritage Institute, the National Council on Intangible Cultural Heritage and a technical committee to evaluate the protection of cultural heritage, and was also developing programmes to refurbish historical sites and to set up a digital database of them.

26. **Mr. Ben Gharbia** (Tunisia) said that while the majority of Tunisians were Muslim Arabs, all persons were equal before the law, regardless of their faith. The Government was open to dialogue with representatives of the Amazigh minority and wished to safeguard the rights of that population.

27. Tunisia had a proud history regarding the promotion of the rights of women. Efforts to increase women's participation in political life were continuing, and women presently made up 30 per cent of parliamentarians. A bill had been introduced to establish gender parity on municipal councils.

28. The Government recognized that the organization of the education system was not optimal, and that there were regional disparities. In the previous five years, between 30 and 40 per cent of the budget had been earmarked for the education and health sectors. The Government regretted that it had been forced to divert funds from those sectors to increase defence spending to combat terrorism, and hoped to be able to return to its focus on education in the near future.

29. The Government was proud of the compensation fund, which was aimed at providing assistance to vulnerable sectors of the population. The fund's budget had been doubled and emphasis was placed on the quality of assistance, using information from the National Authority for the Protection of Personal Data to target it where it was most needed.

30. A total of 600,000 workers were members of a trade union. The Government worked in partnership with civil society to guarantee Internet access. Polygamy was banned under Personal Status Code.

31. The new Constitution, which had been drawn up in 2014, had been based on a dialogue with all stakeholders in society. Tunisia was a republic, and laws were promulgated based on the will of the people. Sharia law was not used as a basis for national legislation.

32. **Mr. Uprimny** welcomed the delegation's recognition of the inequalities present in the education system. He wished to know what efforts the Government was making to examine the situation of the Amazigh minority and how it intended to determine the size of that population.

33. **Mr. Abdel-Moneim** said that the report which was under consideration should have been submitted in 2000 and covered two reporting periods. He noted that some of the issues raised in the concluding observations on the State party's previous report in 1999 (E/C.12/1/Add.36) had been reasons for the revolution that the country had experienced.

34. **Mr. Kerdoun**, noting the findings of the report of the Special Rapporteur on the right to education, said that the high repetition and dropout rates remained a concern in higher education. He wished to know what urgent measures the Government intended to take to improve the quality of higher education and better prepare students for entry into the labour market. Noting the low numbers of students attending private universities, he asked whether the fees at those establishments were affordable only for the most well-to-do families, and whether the general population lacked confidence in the private education sector.

35. **Mr. Pillay** asked whether the Government intended to adopt a national plan on the reduction of poverty, including indicators, timelines and monitoring mechanisms. What measures had it planned to tackle the disparities in the rates of poverty, that disproportionately affected the central, western and southern regions of the country? Would the planned abolition of agricultural subsidies have an adverse impact on poor people? Would food security be undermined by the liberalization of agricultural trade with the EU and the new investment regulations allowing foreigners to acquire agricultural land in Tunisia? He also wished to know how many social housing units had been built since the introduction of the housing scheme in 2012. Did people living in informal settlements have security of tenure? Was there any legislation in place governing forced evictions, and did it comply with international human rights law and general comment No. 7 on the right to adequate housing (article 11 (1) of the Covenant): Forced evictions? Lastly, he asked whether prior consultation took place before evictions, and to what extent homelessness was a problem in the State party.

36. **Ms. Bras Gomes** said that Tunisia should be proud of its record in terms of women's rights, but it was because of that record that the Committee's expectations were higher. She expressed concern at the statement in paragraph 92 of the replies to the list of issues that it was a "widespread phenomenon in the employment world that there is a significant drop in a woman's productivity after she gets married, after the birth of the first child and, even more so, after successive births", as though it were the woman's fault that she became unproductive in the labour market after having children. Women often faced difficulties because the State did not have policies in place to support them in reconciling work and family life. She invited the delegation to comment on what the Government could do to reverse that state of affairs. The social protection floor discussion represented an important opportunity for the Government to maintain the creative energy and involvement of the people in the post-revolution period. She would be interested to hear the delegation's views on that matter.

37. **Mr. De Schutter** (Country Rapporteur) expressed concern about the lack of social protection for persons in the informal sector and asked what could be done to ensure such protection while the transition to the formal economy was in process. While acknowledging that the labour inspectorate did not have a mandate to work in the informal sector, he stressed that responsibility must be taken at some level to ensure compliance with regulations on the protection of workers. He welcomed the new legislation on violence against women but requested clarification of whether article 239 of the Criminal Code, which provided that a rapist could avoid prosecution if he married the victim, was still in

force. He wished to know which legislation criminalized marital rape. With regard to health care, he asked what measures the Government planned to take to make access to medicines more affordable for low-income households, many of which were forced to go to expensive private clinics because of a shortage of drugs in public facilities. Concerning efforts to combat corruption in the health system, he wondered whether there was any intention to draft a patient's charter, clearly informing patients of their rights, including the right to lodge a complaint in the event that they were offered medical services in exchange for a bribe.

The meeting was suspended at 12.15 p.m. and resumed at 12.30 p.m.

38. **Ms. Mbarek** (Tunisia) said that, under the new Investment Code, Tunisian companies were permitted to own agricultural land in order to invest in agricultural companies. Foreign companies could not own land, even in the context of company liquidation.

39. **Ms. Sebai** (Tunisia) said that article 239 of the Criminal Code had been abolished in the light of article 41 of the new law on combating violence against women, which was currently under discussion by the parliament. With respect to marital rape, sexual violence of any kind was considered to be violence against women, regardless of the perpetrator's relationship to the victim. General provisions on rape could thus also be applied to marital rape, as it came under the definition of sexual violence.

40. **Mr. Khalfa** (Tunisia) said that the national programme of assistance for needy families, which had been developed in 1986, was regularly reviewed. A draft resolution on social security networks had been prepared, covering all social programmes for persons with disabilities and disadvantaged groups. Civil society and other stakeholders were included in consultations on social policies and all such programmes. A committee for social security, made up of representatives of the Government, employers and workers, was charged with drafting social reforms related to social welfare and social security.

41. The informal economy had expanded significantly following the revolution, owing in part to the low rate of economic growth and the low level of education of workers. Regrettably, there were no official statistics on the number of workers in that sector. The fact that labour inspectors did not have a mandate to conduct inspections in the informal sector did not mean that there was no government oversight of the sector, particularly when it came to health and safety and child labour. Workers in the informal sector were generally from low-income families, and they enjoyed health and social coverage under the programme for such families. Through tax incentives and social measures, the State was encouraging those workers to join the social security system, and awareness-raising campaigns were being conducted to that end. A large number of older persons received regular benefits under the programme of support for low-income families, while others received benefits for persons who had retired yet were not eligible for a retirement pension.

42. With respect to the cost of medicines, a health insurance system had been introduced in 2004, covering the family doctor system, the government-funded health system and private health care. The Constitution stipulated that low-income families were entitled to free treatment. One third of the Tunisian population — from a range of categories — was entitled to free or subsidized medicines. There was a social mechanism to provide shelter and to cater to the needs of homeless persons.

43. **Ms. Bouzouech** (Tunisia) said that the statistics requested would be provided in writing. The legal and administrative difficulties related to housing that she had mentioned earlier could be grouped in three categories: those linked to complex administrative procedures, to the length of public procurement procedures, and, in particular, to land issues connected with the sites on which housing was to be constructed. With regard to complaints of corruption in the health sector, Tunisia had a comprehensive anti-corruption system,

including one government and one independent mechanism. There were good governance units in all ministries, including the Ministry of Public Health, which automatically dealt with any complaints lodged. There was also a new constitutional anti-corruption authority, to which citizens could submit complaints for in-depth investigation and referral to the courts.

44. **Mr. El Dine Haj** (Tunisia), responding to the question on the number of students in public and private education, said that fees in the private sector were in fact very reasonable. Because of the limited number of places in public institutions, particularly for in-demand specializations with good employment prospects, many well-off and middle-income students opted to study at private institutions. With regard to measures to ensure the quality of education, incentive packages had been adopted to foster partnership between university academics and business professionals.

45. **Mr. Ben Gharbia** (Tunisia) said that the Tunisian General Labour Union had 760,000 members. Ensuring oversight of the informal sector was a problem, but given its size, efforts would be made to do so and to develop mechanisms to ensure that informal workers were covered by social security. The Government acknowledged that much more remained to be done in relation to the status of women. Efforts would be made in cooperation with the Ministry for Women, Family, Children and the Elderly to find solutions to support women in maintaining productivity after they had children. There was a need for attitudinal change in that regard. Under Tunisian law, taking care of children was a joint responsibility of both husband and wife.

46. He thanked the Committee for its support; all of the comments made would be taken into consideration, in order to make further progress in the areas of economic, social and cultural rights. The new Constitution ensured all rights in those areas; it was now a question of adopting the necessary legal framework, in line both with the Constitution and with the international instruments to which Tunisia was a party. The Constitutional Court would be operational within the following two months. There was a strong political will and a desire among all stakeholders, including civil society, to work in a participatory manner to implement the economic, social and cultural rights that had sparked the revolution. However, it was necessary to bear in mind the budgetary, political and social constraints faced, which would require the development of smart solutions. Recalling that the Arab Spring had begun in Tunisia, he expressed the hope that the success of the Tunisian experience of democratic transition would also serve as an example to other countries in the region.

47. **Mr. De Schutter** thanked the delegation for the quality of the dialogue. He welcomed the fact that the new Government planned to pursue the reforms that had begun before it took power, and noted with satisfaction that many of the bills pending before the Assembly of the Representatives of the People were headed in the right direction. There were major expectations among Tunisian society in the areas covered by the Covenant; after all, the starting point for the revolution had been related to social rights, particularly employment. The demonstrations held earlier that year in Tunisia highlighted the urgency of carrying out reforms in that area. The Committee would follow the implementation of its recommendations with great interest.

48. **The Chair** thanked the delegation for the fruitful dialogue.

The meeting rose at 1 p.m.